

Queensland



**INTERACTIVE GAMBLING  
(PLAYER PROTECTION)  
ACT 1998**

**Act No. 14 of 1998**



# Queensland



## INTERACTIVE GAMBLING (PLAYER PROTECTION) ACT 1998

### TABLE OF PROVISIONS

Section		Page
<b>PART 1—PRELIMINARY</b>		
<i>Division 1—Formal provisions</i>		
1	Short title .....	14
2	Commencement .....	14
<i>Division 2—Objects</i>		
3	Objects .....	14
<i>Division 3—Basic concepts and definitions</i>		
4	Meaning of “game” .....	15
5	Meaning of “player” .....	15
6	Meaning of “interactive game” .....	15
7	Dictionary .....	16
<i>Division 4—Territorial application</i>		
8	Territorial application of this Act .....	16
<b>PART 2—INTERACTIVE GAMBLING</b>		
<i>Division 1—The cooperative scheme</i>		
9	General features of the regulatory scheme .....	17
10	Declaration of participating jurisdictions and corresponding law .....	17
<i>Division 2—Authorised providers and authorised games</i>		
11	Meaning of “licensed provider”, “external provider” and “authorised provider” .....	18
12	Meaning of “authorised game” .....	18
13	Authorisation to conduct interactive games .....	19
14	Change to conditions of authorisation .....	19

---

15	Revocation of authorisation . . . . .	20
16	Penalty for conduct of, or participation in, unauthorised interactive gambling . . . . .	20
<b><i>Division 3—Conduct of authorised games</i></b>		
17	Player registration . . . . .	21
18	Procedure for registration . . . . .	21
19	Verification of player’s identity . . . . .	22
20	Player’s account . . . . .	22
21	Acceptance of wagers . . . . .	22
22	Player to be bound by rules of the game . . . . .	23
<b><i>Division 4—Restriction of gambling venues</i></b>		
23	Use of premises for interactive gambling . . . . .	23
<b><i>Division 5—Exemption schemes</i></b>		
24	Meaning of “exemption scheme” . . . . .	23
25	Approval of exemption scheme . . . . .	23
26	Cancellation of approval . . . . .	24
27	Termination of approved exemption scheme . . . . .	25
28	Gazette notice . . . . .	25
<b><i>Division 6—General validation of authorised activities</i></b>		
29	Lawful activities . . . . .	25
<b>PART 3—INTERACTIVE GAMBLING LICENCES</b>		
<b><i>Division 1—Applications for, and issue of, interactive gambling licences</i></b>		
30	Application for interactive gambling licence . . . . .	26
31	Consideration of application . . . . .	26
32	Conditions for granting application . . . . .	26
33	Suitability of applicant to hold interactive gambling licence . . . . .	27
34	Suitability of business and executive associates . . . . .	28
35	Investigations of suitability of persons . . . . .	28
36	Decision on application . . . . .	28
37	Conditions of licence . . . . .	29
38	Form of licence . . . . .	29
39	Changing conditions of licence . . . . .	29

---

40	Return of licence for endorsement of changed conditions . . . . .	30
	<b><i>Division 2—General provisions about interactive gambling licences</i></b>	
41	Interactive gambling licence not to be transferable . . . . .	30
42	Mortgage and assignment of interactive gambling licence . . . . .	31
43	Surrender of interactive gambling licence . . . . .	31
	<b><i>Division 3—Suspension and cancellation of interactive gambling licences</i></b>	
44	Grounds for suspension or cancellation . . . . .	32
45	Show cause notice . . . . .	33
46	Copy of show cause notice to be given to interested persons . . . . .	34
47	Consideration of representations . . . . .	35
48	Immediate suspension . . . . .	35
49	Censuring licensed provider . . . . .	35
50	Direction to rectify . . . . .	36
51	Notice referring question of disciplinary action to Governor in Council . . .	37
52	Suspension, cancellation and appointment of administrator . . . . .	37
53	Terms of appointment, and role, of administrator . . . . .	38
54	Cancellation or reduction of period of suspension . . . . .	39
	<b><i>Division 4—Investigations into suitability</i></b>	
55	Audit program . . . . .	39
56	Investigations . . . . .	39
57	Requirement to give information or document for investigation . . . . .	40
58	Reports about person’s criminal history . . . . .	41
59	Decisions about interactive gambling licence not to be justiciable . . . . .	41
	<b>PART 4—KEY PERSONS</b>	
	<b><i>Division 1—Requirement for key persons to be licensed</i></b>	
60	Meaning of “key person” and “key relationship” . . . . .	42
61	Obligation to hold licence . . . . .	43
62	Requirement that key person apply for licence or end role . . . . .	43
63	Requirement that key person end role . . . . .	44
64	Requirement to end key person’s role . . . . .	44
	<b><i>Division 2—Applications for, and issue of, key person licences</i></b>	
65	Application for key person licence . . . . .	45

---

66	Consideration of application . . . . .	45
67	Conditions for granting application . . . . .	45
68	Investigation of suitability of applicant . . . . .	46
69	Decision on application . . . . .	46
70	Form of key person licence . . . . .	46
71	Term of key person licence . . . . .	47
72	Lapsing of key person licence . . . . .	47
73	Conditions . . . . .	47
74	Changing conditions of key person licence . . . . .	47
75	Replacement of key person licence . . . . .	48
76	Surrender of key person licence . . . . .	49
	<i>Division 3—Suspension and cancellation of key person licences</i>	
77	Grounds for suspension or cancellation . . . . .	50
78	Show cause notice . . . . .	50
79	Immediate suspension . . . . .	51
80	Censuring key person licensee . . . . .	52
81	Direction to rectify . . . . .	52
82	Suspension and cancellation of key person licence . . . . .	53
83	Cancellation or reduction of period of suspension . . . . .	54
	<i>Division 4—Investigation of key person licensees</i>	
84	Audit program . . . . .	55
85	Investigations into suitability of key person licensees . . . . .	55
86	Requirement to give information or document for investigation . . . . .	56
87	Reports about criminal history . . . . .	56
	<i>Division 5—Requirements about employment</i>	
88	Notice of start of employee’s employment . . . . .	57
89	Returns about employees . . . . .	57
	<i>Division 6—Requirements about key relationships</i>	
90	Notice of end of key relationship . . . . .	57
91	Requirement to end key relationship . . . . .	58
	<i>Division 7—General</i>	
92	False statements by applicants . . . . .	58

93	Destruction of fingerprints . . . . .	58
----	---------------------------------------	----

**PART 5—AGENTS**

*Division 1—Agency agreements*

94	Meaning of “agent” . . . . .	59
95	Meaning of “agency agreement” . . . . .	60
96	Conditions for entering into agency agreement . . . . .	60
97	Notice of agency agreement . . . . .	61
98	Amendment of agency agreement . . . . .	61
99	Returns about agents . . . . .	61

*Division 2—Terminating agency agreements*

100	Grounds for termination . . . . .	61
101	Show cause notice . . . . .	62
102	Suspending agent’s operations . . . . .	63
103	Censuring agent . . . . .	64
104	Direction to rectify . . . . .	65
105	Directions to terminate affecting agents . . . . .	66
106	Termination of agreement . . . . .	66
107	Notice of termination of agreement . . . . .	67

*Division 3—Investigations into suitability*

108	Audit program . . . . .	67
109	Investigations . . . . .	67
110	Requirement to give information or material for investigation . . . . .	68
111	Reports about person’s criminal history . . . . .	69

**PART 6—LICENCE FEES AND TAX**

*Division 1—Licence fees*

112	Liability to licence fee . . . . .	69
-----	------------------------------------	----

*Division 2—Interactive gambling tax*

113	Liability to tax . . . . .	69
114	Returns for calculation of tax . . . . .	70
115	Participating jurisdictions tax entitlement . . . . .	70
116	Payment of tax for community benefit . . . . .	70

***Division 3—Recovery and penalties***

117	Penalty for late payment . . . . .	71
118	Recovery of amounts . . . . .	72
119	Revenue offences . . . . .	72

**PART 7—COMPLIANCE REQUIREMENTS*****Division 1—Rules and directions***

120	Rules . . . . .	73
121	Directions . . . . .	73
122	General responsibilities of licensed provider . . . . .	73
123	Responsibility of licensed provider to ensure compliance by agent . . . . .	73
124	Responsibility of agent . . . . .	74

***Division 2—Place of operation***

125	Licensed provider's place of operation . . . . .	74
126	Agent's place of operation . . . . .	74

***Division 3—Control systems***

127	Authorised games to be conducted under an approved control system . . . . .	75
128	Control system submission . . . . .	75
129	Control system (change) submission . . . . .	76
130	Consideration of, and decisions about, submissions . . . . .	77
131	Direction to change approved control system . . . . .	78

***Division 4—Dealings involving players accounts***

132	Funds in player's account to be remitted on demand . . . . .	78
133	Licensed provider or agent not to act as credit provider . . . . .	78
134	Licensed providers limited recourse to players accounts . . . . .	79
135	Inactive players accounts . . . . .	79

***Division 5—Responsible gambling***

136	Limitation on amount wagered . . . . .	79
137	Prohibition of interactive gambling . . . . .	80

***Division 6—Gambling records***

138	Notices about keeping gambling records . . . . .	82
139	Gambling records to be kept at certain place . . . . .	83
140	Gambling records to be kept for required period . . . . .	83

***Division 7—Financial accounts, statements and reports***

141	Keeping of accounts . . . . .	83
142	Preparation of financial statements and accounts . . . . .	84
143	Submission of reports . . . . .	84

***Division 8—Financial institutions accounts***

144	Keeping of accounts . . . . .	85
145	Use of accounts . . . . .	86

***Division 9—Audit***

146	Audit of licensed provider's operations . . . . .	86
147	Completion of audit . . . . .	86
148	Further information following audit . . . . .	86

***Division 10—Ancillary and related agreements***

149	Ancillary gambling agreement . . . . .	87
150	Approval of ancillary gambling agreements . . . . .	87
151	Review of related agreements . . . . .	88
152	Show cause notice for related agreement . . . . .	88
153	Direction to terminate related agreement . . . . .	89

***Division 11—Official supervision***

154	Monitoring operations . . . . .	90
155	Presence of inspector at certain operations . . . . .	90

***Division 12—Prizes***

156	Payment or collection of prizes . . . . .	91
157	Disposal of unclaimed non-monetary prizes . . . . .	91
158	Claims for prize . . . . .	92
159	Entitlement to prize lapses if not claimed within 5 years . . . . .	92

***Division 13—Aborted games***

160	Aborted games . . . . .	93
161	Power to withhold prize in certain cases . . . . .	93

***Division 14—Approval and use of regulated interactive gambling equipment***

162	Approval of regulated interactive gambling equipment . . . . .	94
163	Use of regulated interactive gambling equipment . . . . .	95

***Division 15—Advertising***

164	Advertising interactive gambling . . . . .	95
165	Incidental requirements for advertisements . . . . .	96
166	Directions about advertising . . . . .	96

***Division 16—Complaints***

167	Inquiries about complaints . . . . .	97
168	Reporting improper behaviour . . . . .	98

***Division 17—Gambling offences***

169	Cheating . . . . .	99
170	Forgery and deception . . . . .	99
171	Impersonating certain persons . . . . .	100
172	Bribery . . . . .	100
173	Participation in authorised games by employees of licensed provider . . .	101
174	Chief executive's power to restrict participation in authorised games by gaming officials . . . . .	102
175	Power to declare gaming official to be a key official . . . . .	102
176	Relationship of key officials with authorised providers and agents . . . . .	102
177	Relationship of key officials with prospective licensed providers . . . . .	103
178	Relationship between authorised providers and key officials . . . . .	104
179	Participation by minors in conduct of approved games prohibited . . . . .	104
180	Participation by minors as players prohibited . . . . .	105
181	Obscene etc. terms prohibited . . . . .	105
182	Interference with proper conduct of authorised games . . . . .	105
183	Offences by certain persons . . . . .	105
184	Licensed provider not to publish identity of player in certain cases . . . . .	106

**PART 8—INVESTIGATION AND ENFORCEMENT*****Division 1—Inspectors***

185	Persons who are inspectors . . . . .	107
186	Appointment of inspectors . . . . .	107
187	Qualifications for appointment . . . . .	108
188	Audit program . . . . .	108
189	Criminal history reports for investigation . . . . .	109
190	Powers . . . . .	109

---

191	Appointment conditions . . . . .	109
192	Identity cards . . . . .	110
193	Failure to return identity card . . . . .	110
194	Production or display of identity card . . . . .	110
<b><i>Division 2—Powers of inspectors</i></b>		
<b><i>Subdivision 1—General scope of inspectors’ powers</i></b>		
195	General scope of powers . . . . .	111
<b><i>Subdivision 2—Power to enter places</i></b>		
196	Entry without consent or warrant . . . . .	111
197	Entry with consent or warrant . . . . .	111
<b><i>Subdivision 3—Consents and warrants for entry</i></b>		
198	Consent to entry . . . . .	112
199	Evidence of consent . . . . .	112
200	Application for warrant . . . . .	113
201	Issue of warrant . . . . .	113
202	Special warrants . . . . .	113
203	Evidence about special warrants . . . . .	115
<b><i>Subdivision 4—General powers</i></b>		
204	General powers after entering places . . . . .	115
205	Failure to help inspector . . . . .	116
206	Failure to give information . . . . .	116
<b><i>Subdivision 5—Power to seize evidence</i></b>		
207	Seizing evidence at place that may be entered without consent or warrant . . . . .	117
208	Seizing evidence at places that may only be entered with consent or warrant . . . . .	117
209	Securing things after seizure . . . . .	118
210	Tampering with things subject to seizure . . . . .	118
211	Powers to support seizure . . . . .	118
212	Receipts to be given on seizure . . . . .	119
213	Forfeiture . . . . .	119
214	Return of things that have been seized . . . . .	120
215	Access to things that have been seized . . . . .	121

***Subdivision 6—Power to give directions to stop using things***

216	Direction to stop using thing . . . . .	121
217	Requirements about stop directions . . . . .	121
218	Failure to comply with stop direction . . . . .	122

***Subdivision 7—Power to obtain information***

219	Power to require name and address . . . . .	122
220	Failure to give name or address . . . . .	123
221	Power to require production of documents . . . . .	123
222	Failure to produce document . . . . .	124
223	Failure to certify copy of document . . . . .	124
224	Power to require attendance of persons . . . . .	124
225	Failure to comply with requirement about attendance . . . . .	126
226	Power to require financial records . . . . .	126
227	Effect of compliance with financial records requirement . . . . .	127
228	Failure to comply with financial records requirement . . . . .	127

***Division 3—Powers of Minister***

229	Direction about management practice . . . . .	127
-----	---	-----

***Division 4—General enforcement matters***

230	Forfeiture on conviction . . . . .	128
231	Dealing with forfeited things . . . . .	128
232	Notice of damage . . . . .	129
233	Compensation . . . . .	129
234	Protecting officials from liability . . . . .	130

***Division 5—General enforcement offences***

235	False or misleading statements . . . . .	131
236	False, misleading or incomplete documents . . . . .	131
237	Obstructing inspectors . . . . .	132

**PART 9—LEGAL PROCEEDINGS*****Division 1—Evidence***

238	Application of division . . . . .	132
239	Appointments and authority . . . . .	132
240	Signatures . . . . .	133

---

241	Evidentiary aids . . . . .	133
<b><i>Division 2—Proceedings</i></b>		
242	Indictable and summary offences . . . . .	134
243	Proceedings for indictable offences . . . . .	134
244	Limitation on who may summarily hear indictable offence proceedings .	135
245	Limitation on time for starting summary proceedings . . . . .	135
246	Responsibility for acts or omissions of representatives . . . . .	136
247	Executive officers must ensure corporation complies with Act . . . . .	136
248	Attempts to commit offences . . . . .	137
<b>PART 10—APPEALS</b>		
249	Appeals by licensed providers . . . . .	137
250	Appeals by applicants for key person licences . . . . .	137
251	Appeals by key person licensees . . . . .	138
252	Appeals by agents . . . . .	138
253	Appeals by other persons . . . . .	138
254	Starting appeal . . . . .	138
255	Stay of operation of decisions . . . . .	139
256	Hearing procedures . . . . .	139
257	Power to gather evidence . . . . .	140
258	Powers of Queensland Gaming Commission . . . . .	141
259	Appeals to District Court . . . . .	141
<b>PART 11—MISCELLANEOUS</b>		
260	Confidentiality of information . . . . .	141
261	Delegations . . . . .	142
262	Approval of forms . . . . .	143
263	Regulation-making power . . . . .	143
<b>PART 12—CONSEQUENTIAL AMENDMENTS</b>		
264	Amendment of Art Unions Act 1992 . . . . .	143
265	Amendment of Casino Control Act 1982 . . . . .	143
266	Amendment of Gaming Machine Act 1991 . . . . .	144
267	Amendment of Keno Act 1996 . . . . .	146
268	Amendment of Lotteries Act 1997 . . . . .	147

<b>SCHEDULE 1</b> .....	148
<b>DECISIONS NOT SUBJECT TO APPEAL</b>	
<b>SCHEDULE 2</b> .....	150
<b>DECISIONS OF CHIEF EXECUTIVE SUBJECT TO APPEAL</b>	
<b>SCHEDULE 3</b> .....	152
<b>DICTIONARY</b>	

Queensland



# **Interactive Gambling (Player Protection) Act 1998**

**Act No. 14 of 1998**

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**An Act to regulate interactive gambling and for other purposes**

*[Assented to 26 March 1998]*

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### *Division 1—Formal provisions*

#### Short title

1. This Act may be cited as the *Interactive Gambling (Player Protection) Act 1998*.

#### Commencement

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

### *Division 2—Objects*

#### Objects

3. The objects of this Act are—

- (a) to regulate and control gambling (“**interactive gambling**”) accessible from the home involving interactive games in which the players participate by means of the internet or through some other telecommunication medium; and
- (b) to provide protection for players of interactive games; and
- (c) to provide a basis for implementing an inter-jurisdictional regulatory scheme for—
  - (i) the reciprocal recognition between participating jurisdictions of licences, authorisations and other administrative acts; and
  - (ii) the regulation and control of interactive gambling in the participating jurisdictions on a cooperative basis; and

- (iii) the sharing of tax derived from interactive gambling on an equitable basis.

### *Division 3—Basic concepts and definitions*

#### **Meaning of “game”**

- 4. A “game” includes a scheme or arrangement.

#### **Meaning of “player”**

- 5. A “player” is a person who participates in an interactive game.

#### **Meaning of “interactive game”**

- 6.(1) An “interactive game” is a game in which—

- (a) a prize consisting of money or something else of value is offered or can be won under the rules of the game; and
- (b) a player—
  - (i) enters the game or takes any step in the game by means of a telecommunication device; and
  - (ii) gives, or undertakes to give, a monetary payment or other valuable consideration to enter, in the course of, or for, the game; and
- (c) the winner of a prize is decided—
  - (i) wholly or partly by chance; or
  - (ii) by a competition or other activity in which the outcome is wholly or partly dependent on the player’s skill.

- (2) However, the following are not interactive games—

- (a) wagering being conducted under the *Racing and Betting Act 1980* or the *Wagering Act 1998* at the commencement of this section if a person for placing a wager for the wagering places it by means of the telecommunication device used in conducting the wagering;

- (b) a game authorised, or eligible to be authorised, as an art union under the *Art Unions Act 1992*, or a game that is an exempt art union as defined in that Act, unless the game is declared by a regulation made under subsection (3) to be an interactive game despite this exclusion;
- (c) a game authorised under a gaming Act in which the players may participate by means of telecommunication devices but only from designated commercial sites connected to a telecommunication network.

(3) A game that would, but for the exclusion in subsection (2)(b), be an interactive game is taken to be an interactive game despite the exclusion if—

- (a) having regard to the nature, value, or frequency of prizes offered in the game and other matters the Minister considers relevant, the Minister considers the game should be brought within the ambit of this Act; and
- (b) a regulation is made, on the Minister's recommendation, declaring the game to be an interactive game despite the exclusion.

## **Dictionary**

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

### ***Division 4—Territorial application***

#### **Territorial application of this Act**

8.(1) This Act applies both within and outside Queensland.

(2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

## PART 2—INTERACTIVE GAMBLING

### *Division 1—The cooperative scheme*

#### **General features of the regulatory scheme**

**9.(1)** This Act contemplates a cooperative scheme between Queensland and other jurisdictions for the regulation and control of interactive gambling.

**(2)** However, this Act is not dependent on participation by any other jurisdiction in the regulatory scheme.

**(3)** The regulation and control of interactive gambling is to be achieved through a statutory scheme consisting of this Act and the corresponding laws of participating jurisdictions for the licensing and control of persons who conduct, or exercise an important role in the conduct of, interactive games.

#### **Declaration of participating jurisdictions and corresponding law**

**10.(1)** If the Minister is satisfied the law of another jurisdiction is compatible with this Act, the Governor in Council may, on the Minister's recommendation, declare—

- (a) the other jurisdiction is to be regarded under this Act as a participating jurisdiction; and
- (b) the relevant law of the other jurisdiction (including the law as amended or substituted from time to time) is to be regarded as a corresponding law.

**(2)** However, a declaration is not to be made under this section unless the Minister has entered into an agreement (an “**intergovernmental agreement**”) with the prospective participating regulator that makes, in the Minister's opinion, adequate provision for the following matters—

- (a) the taxation of authorised games on a uniform or consistent basis;
- (b) collaboration between gaming officials and officers of the other jurisdiction engaged in the administration of the relevant law of the other jurisdiction;

- (c) mutual recognition of licences and administrative acts between jurisdictions;
- (d) sharing of tax revenue derived from interactive gambling on an equitable basis.

(3) If the Minister considers the law of a participating jurisdiction is no longer compatible with this Act, or the intergovernmental agreement with the participating jurisdiction is not operating satisfactorily, the Governor in Council may, on the Minister's recommendation, declare—

- (a) the other jurisdiction is, as from a specified date, no longer to be regarded as a participating jurisdiction; and
  - (b) the relevant law of the other jurisdiction is, as from a specified date, no longer to be regarded as a corresponding law.
- (4) A declaration under this section is to be made by regulation.

### *Division 2—Authorised providers and authorised games*

#### **Meaning of “licensed provider”, “external provider” and “authorised provider”**

**11.(1)** A “**licensed provider**” means a person who is licensed under this Act to conduct interactive games.

(2) An “**external provider**” is a person who is licensed under the corresponding law of a participating jurisdiction to conduct interactive games.

(3) An “**authorised provider**” is a person who is licensed under this Act, or under the corresponding law of a participating jurisdiction, to conduct interactive games.

#### **Meaning of “authorised game”**

**12.(1)** An “**authorised game**” is an interactive game that—

- (a) a licensed provider is authorised to conduct under this division; or
- (b) an external provider is authorised to conduct under the corresponding law of the participating jurisdiction in which the

provider is licensed.

(2) However, a game that an external provider is authorised to conduct under a corresponding law (an “**externally authorised game**”) is not to be regarded as an authorised game if the external provider is prohibited from conducting the game in Queensland by order under subsection (3).

(3) If the Minister believes the conduct of an externally authorised game in Queensland is contrary to the public interest, the Minister may, by written notice given to the external provider authorised under the corresponding law to conduct the game, prohibit conduct of the game in Queensland.

(4) The Minister may only impose a prohibition under subsection (3) after giving the external provider and the relevant participating regulator written notice of the proposed prohibition and the reasons for it and allowing each of them a reasonable opportunity to make representations.

(5) If the Minister imposes a prohibition under subsection (3) the Minister must promptly give the relevant participating regulator a copy of the notice imposing the prohibition.

### **Authorisation to conduct interactive games**

**13.(1)** The Minister may, on application by a licensed provider, authorise the provider to conduct a particular interactive game on conditions stated in the instrument of approval.

(2) The conditions of authorisation apply to the conduct of the game both within and outside Queensland.

(3) The Minister has an absolute discretion to refuse to authorise an interactive game for which the Minister’s authorisation is sought.

(4) If the Minister decides to refuse an application, the Minister must promptly give the applicant written notice of the decision and the reasons for it.

### **Change to conditions of authorisation**

**14.(1)** The Minister may, by written notice given to a licensed provider, change the conditions on which a particular interactive game is authorised if the Minister is of the opinion—

- (a) the conditions are not stringent enough to prevent cheating or other contravention of this Act; or
- (b) compliance with the conditions cannot be effectively monitored or enforced; or
- (c) there is some other good reason to change the conditions.

(2) However, the Minister may only change the conditions of an authorisation under this section after giving the licensed provider written notice of the proposed change of conditions and the reasons for it and allowing the licensed provider a reasonable opportunity to make representations.

### **Revocation of authorisation**

**15.(1)** The Minister may, by written notice given to a licensed provider, revoke the authorisation for a particular interactive game if the Minister is of the opinion—

- (a) the licensed provider has contravened a condition of the authorisation; or
- (b) compliance with the conditions of the authorisation cannot be effectively monitored or enforced; or
- (c) there is some other good reason to revoke the authorisation.

(2) However, the Minister may only revoke an authorisation under this section after giving the licensed provider written notice of the proposed revocation and the reasons for it and allowing the licensed provider a reasonable opportunity to make representations.

### **Penalty for conduct of, or participation in, unauthorised interactive gambling**

**16.(1)** A person must not conduct an interactive game wholly or partly in Queensland, or allow a person who is in Queensland to participate in an interactive game, unless—

- (a) the game is an authorised game; and
- (b) the person is authorised under this Act or a corresponding law to conduct the game.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person in Queensland must not participate in, or encourage or facilitate participation by another in, an interactive game knowing that the game is not an authorised game.

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

### *Division 3—Conduct of authorised games*

#### **Player registration**

17.(1) A licensed provider must not permit a person to participate as a player in an authorised game unless the person is registered with the provider as a player.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not participate as a player in an authorised game unless the person is registered with the authorised provider who conducts the game as a player.

Maximum penalty—40 penalty units.

#### **Procedure for registration**

18.(1) An authorised provider (or agent) may only register a person as a player on receipt of an application for registration in an approved form.

(2) A person is not eligible for registration as a player unless the person produces evidence of a kind required by the chief executive—

- (a) of the person's—
  - (i) identity; and
  - (ii) place of residence; and
- (b) that the person is at least 18 years of age.

(3) Before registering a person as a player, an authorised provider or agent must verify the place of residence of the applicant under procedures approved by the chief executive.

**Verification of player's identity**

**19.** A licensed provider must not allow a registered player to participate in an authorised game until the player's identity has been authenticated under the licensed provider's approved control system.

Maximum penalty—200 penalty units.

**Player's account**

**20.(1)** A “**player's account**” is an account—

- (a) in the name of the player—
  - (i) at a financial institution; or
  - (ii) with a body prescribed under a regulation; and
- (b) against which the licensed provider has a right to debit the amount of a wager.

**(2)** A player's account must be established on a basis under which the player may only have direct recourse to funds in the account—

- (a) to obtain the balance of funds in the account and close the account; or
- (b) to obtain the whole or part of the amount paid into the account as a prize in an authorised game; or
- (c) as authorised by the licensed provider or the chief executive.

**Acceptance of wagers**

**21.** A licensed provider must not accept a wager from a player in an authorised game unless—

- (a) a player's account has been established in the name of the player and there are adequate funds in the account to cover the amount of the wager; or
- (b) the funds necessary to cover the amount of the wager are provided in a way authorised under a regulation.

**Player to be bound by rules of the game**

**22.** A player who participates in an authorised game must comply with rules of the game as notified to the player under the conditions on which the game is authorised.

Maximum penalty—40 penalty units.

***Division 4—Restriction of gambling venues*****Use of premises for interactive gambling**

**23.** A person must not—

- (a) advertise that premises are available for playing interactive games; or
- (b) seek to obtain a commercial advantage from the use of premises for playing interactive games.

Maximum penalty—200 penalty units or 2 years imprisonment.

***Division 5—Exemption schemes*****Meaning of “exemption scheme”**

**24.** An “**exemption scheme**” is a scheme exempting the licensed provider authorised to conduct interactive games under the scheme (the “**exempted provider**”) from the application of specified provisions of this Act to an extent prescribed in the scheme.

**Approval of exemption scheme**

**25.(1)** The Minister may approve an exemption scheme if the Minister is satisfied, on application by a licensed provider or an applicant for an interactive gambling licence—

- (a) the exemption scheme complies with the criteria for approval of exemption schemes; and
- (b) the approval of the exemption scheme is warranted in the

circumstances of the particular case.

*Examples—*

1. The Minister may consider an exemption scheme warranted if the interactive games are to be conducted by or for the benefit of a charity and the proceeds are to be devoted to charitable purposes.

2. The Minister may consider an exemption scheme warranted if a game authorised under another Act involves interactive elements (and therefore falls within the definition of an interactive game) but is to be substantially conducted under the other Act.

(2) An exemption scheme complies with the criteria for approval of exemption schemes if (and only if) the Minister is satisfied—

- (a) the standards of probity required under this Act for providers of interactive games and those involved in the conduct of interactive games will not be compromised by the approval of the scheme; and
- (b) adequate and appropriate safeguards will exist to ensure the fairness of the interactive games to be conducted under the scheme and to protect the interests of players; and
- (c) adequate and appropriate safeguards will exist to prevent participation in the interactive games to be conducted under the scheme by minors; and
- (d) the scheme provides for other adequate and appropriate safeguards to ensure that the public interest is not affected in an adverse and material way by the conduct of interactive games under the scheme.

(3) For this Act, a game authorised under an approved exemption scheme is an authorised game.

### **Cancellation of approval**

**26.(1)** The Minister may, by written notice to an exempted provider, cancel the approval of an exemption scheme if the Minister is of the opinion the scheme no longer complies with the criteria for approval of exemption schemes.

(2) However, the Minister may only cancel the approval of an approved exemption scheme after giving the exempted provider written notice of the

proposed cancellation and the reasons for it and allowing the exempted provider a reasonable opportunity to make representations.

### **Termination of approved exemption scheme**

**27.** An approved exemption scheme terminates if—

- (a) the approval was given for a specified period and the period comes to an end; or
- (b) the Minister cancels the approval under this division.

### **Gazette notice**

**28.(1)** The Minister must have notice published in the gazette of—

- (a) the approval of an exemption scheme; or
- (b) the cancellation of the approval of an exemption scheme.

**(2)** Notice of the approval of an exemption scheme must state an address at which interested members of the public may inspect, or obtain a copy of, the exemption scheme.

### ***Division 6—General validation of authorised activities***

### **Lawful activities**

**29.** Despite any other law, the following activities are lawful—

- (a) the conduct of an authorised game, under this Act, by a person authorised under this Act or a corresponding law to conduct the game;
- (b) the advertisement and promotion (subject to this Act) of an authorised game;
- (c) activities of an agent conducted under this Act and the relevant agency agreement;
- (d) participation (subject to this Act) as a player in an authorised game;

- (e) the doing of anything else required or authorised to be done under this Act.

## **PART 3—INTERACTIVE GAMBLING LICENCES**

### *Division 1—Applications for, and issue of, interactive gambling licences*

#### **Application for interactive gambling licence**

**30.(1)** An application for an interactive gambling licence must be in an approved form.

(2) An application must be accompanied by any application fee prescribed under a regulation.

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

#### **Consideration of application**

**31.(1)** The Minister must consider an application for an interactive gambling licence and either grant or refuse to grant the application.

(2) Despite subsection (1), the Minister is required to consider an application for an interactive gambling licence by a natural person only if the applicant agrees to having the applicant's photograph and fingerprints taken.

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

**32.(1)** The Minister may grant an application for an interactive gambling licence only if the Minister is satisfied—

- (a) the applicant is a suitable person to hold an interactive gambling licence; and
- (b) each business or executive associate of the applicant is a suitable

person to be associated with a licensed provider's operations.

(2) However, the Minister may refuse to grant an application even if the Minister is satisfied of the matters mentioned in subsection (1).

### **Suitability of applicant to hold interactive gambling licence**

**33.(1)** In deciding whether an applicant is a suitable person to hold an interactive gambling licence, the Minister may have regard to the following matters—

- (a) the applicant's character or business reputation;
- (b) the applicant's current financial position and financial background;
- (c) if the applicant is not an individual—whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (d) whether the applicant has, or is able to obtain, appropriate resources and appropriate services;
- (e) whether the applicant has the appropriate business ability to conduct interactive games successfully under an interactive gambling licence;
- (f) if the applicant has a business association with another entity—
  - (i) the entity's character or business reputation; and
  - (ii) the entity's current financial position and financial background;
- (g) anything else prescribed under a regulation.

(2) In subsection (1)—

**“appropriate resources”** means financial resources—

- (a) adequate, in the Minister's opinion, to ensure the financial viability of operations conducted under an interactive gambling licence; and
- (b) available from a source that is not, in the Minister's opinion, tainted with illegality.

“**appropriate services**” means the services of persons who have appropriate experience to ensure the proper and successful conduct of interactive games.

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

**34.** In deciding whether a business or executive associate of an applicant for an interactive gambling licence is a suitable person to be associated with a licensed provider’s operations, the Minister may have regard to the following matters—

- (a) the person’s character or business reputation;
- (b) the person’s current financial position and financial background;
- (c) if the person has a business association with another entity—
  - (i) the entity’s character or business reputation; and
  - (ii) the entity’s current financial position and financial background;
- (d) anything else prescribed under a regulation.

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

**35.(1)** The chief executive may investigate an applicant for an interactive gambling licence to help the Minister decide whether the applicant is a suitable person to hold an interactive gambling licence.

**(2)** The chief executive may investigate a business or executive associate of an applicant for an interactive gambling licence to help the Minister decide whether the business or executive associate is a suitable person to be associated with a licensed provider’s operations.

### **Decision on application**

**36.(1)** If the Minister decides to grant an application for an interactive gambling licence, the Minister must promptly issue an interactive gambling licence to the applicant.

**(2)** If the Minister decides to refuse to grant an application for an

interactive gambling licence, the Minister must promptly give the applicant written notice of the decision.

### **Conditions of licence**

**37.** The Minister may issue an interactive gambling licence—

- (a) on conditions the Minister considers necessary or desirable for the proper conduct of interactive games; and
- (b) on other conditions the Minister considers necessary or desirable in the public interest.

### **Form of licence**

**38.(1)** An interactive gambling licence must be in the approved form.

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

- (a) the licensed provider's name;
- (b) the date of issue of the licence;
- (c) the term for which the licence is (subject to this Act) to remain in force;
- (d) the conditions of the licence;
- (e) other particulars prescribed under a regulation.

### **Changing conditions of licence**

**39.(1)** The Minister may decide to change the conditions of an interactive gambling licence, if the Minister considers it is necessary or desirable to make the change for the proper conduct of authorised games by the licensed provider or otherwise in the public interest.

**(2)** However, if a condition of an interactive gambling licence is designated in the licence as a condition that may be changed only by agreement between the Minister and the licensed provider, the condition may be changed only by agreement between those persons.

**(3)** If the Minister decides to change conditions of an interactive

gambling licence under this section, the Minister must promptly give the licensed provider written notice of the change (a “**condition notice**”) and the reasons for the change.

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

### **Return of licence for endorsement of changed conditions**

**40.(1)** The licensed provider must return the licence to the Minister within 7 days of receiving the condition notice notifying a change of conditions, unless the licensed provider has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) On receiving the interactive gambling licence, the Minister must—

- (a) amend the licence in an appropriate way and return the amended licence to the licensed provider; or
- (b) if the Minister does not consider it is practicable to amend the licence—issue a replacement licence, incorporating the changed conditions, to the licensed provider.

(3) A change of conditions does not depend on the interactive gambling licence being amended to record the change or a replacement licence being issued.

(4) A change of conditions takes effect on a day agreed between the Minister and the licensed provider or, in the absence of an agreement, the later of the following—

- (a) the day the condition notice notifying the change is given to the licensed provider;
- (b) if a later day is stated in the condition notice—the later day.

### ***Division 2—General provisions about interactive gambling licences***

#### **Interactive gambling licence not to be transferable**

**41.(1)** An interactive gambling licence cannot be transferred.

(2) However, if an interactive gambling licence is mortgaged, charged or

encumbered with the written approval of the Minister, this section does not prevent the transfer of the licence, subject to section 42, by way of enforcement of the security.

### **Mortgage and assignment of interactive gambling licence**

**42.(1)** A licensed provider must not mortgage, charge or otherwise encumber the licence except with the written approval of the Minister.

**(2)** If a person has a right to sell and transfer an interactive gambling licence under or because of a mortgage, charge or encumbrance, the licence may only be sold and transferred to a person approved by the Minister.

**(3)** Before the Minister approves the transfer of an interactive gambling licence under this section, the Minister must be satisfied that—

- (a)** the proposed transferee is a suitable person to hold an interactive gambling licence; and
- (b)** each business and executive associate of the proposed transferee is a suitable person to be associated with a licensed provider's operations.

**(4)** The Minister may require the proposed transferee of an interactive gambling licence to submit an application for the licence and may deal with the application, and investigate the suitability of the proposed transferee and the proposed transferee's business and executive associates, in the same way as if the application were an application for a new interactive gambling licence.

**(5)** If a person has under, or because of, a mortgage, charge or encumbrance a power to appoint a receiver or manager of the business conducted under an interactive gambling licence, the power may only be exercised if the Minister first approves the proposed receiver or manager in writing.

### **Surrender of interactive gambling licence**

**43.(1)** A licensed provider may surrender the licence by written notice given to the Minister.

**(2)** The surrender takes effect—

- (a) if paragraph (b) does not apply—
  - (i) 3 months after the notice is given; or
  - (ii) if a later day of effect is stated in the notice—on the later day;  
or
- (b) if the Minister, by written notice, approves a day of effect that is earlier than 3 months after the notice is given—on the day of effect approved by the Minister.

***Division 3—Suspension and cancellation of interactive gambling licences***

**Grounds for suspension or cancellation**

**44.(1)** Each of the following is a ground for suspending or cancelling an interactive gambling licence—

- (a) the licensed provider is not, or is no longer, a suitable person to hold an interactive gambling licence;
- (b) a business or executive associate of the licensed provider is not, or is no longer, a suitable person to be associated with a licensed provider's operations;
- (c) the licensed provider has been convicted of an offence against this Act, a gaming Act or a corresponding law;
- (d) the licensed provider has been convicted of an indictable offence;
- (e) the licensed provider has contravened a condition of the interactive gambling licence;
- (f) the licensed provider has contravened a provision of this Act or a corresponding law (being a provision a contravention of which does not constitute an offence);
- (g) the licensed provider has failed to discharge financial commitments for the licensed provider's operations;
- (h) the licensed provider is bankrupt, has compounded with creditors or otherwise taken, or applied to take, advantage of any law about bankruptcy;

- (i) the licensed provider is affected by control action under the Corporations Law;
- (j) the interactive gambling licence was obtained by a materially false or misleading representation or in some other improper way.

(2) For forming the belief that the ground mentioned in subsection (1)(a) exists, the Minister may have regard to the same matters to which the Minister may have regard in deciding whether an applicant is a suitable person to hold an interactive gambling licence.

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

(4) For subsection (1)(i), a licensed provider is affected by control action under the Corporations Law if the licensed provider—

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

### **Show cause notice**

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

- (a) a ground exists to suspend or cancel an interactive gambling 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 interactive games by the licensed provider 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 licensed provider 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 interactive gambling licence—states the proposed suspension period; and
- (e) invites the licensed provider to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the licensed provider.

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

46.(1) The Minister must promptly give a copy of the show cause notice to—

- (a) each participating regulator; and
- (b) each person (an “**interested person**”) the Minister believes has an interest in the interactive gambling licence if the Minister considers—
  - (i) the person’s interest may be affected adversely by the suspension or cancellation of the licence; and
  - (ii) 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 licensed provider’s interest may be improperly prejudiced.

(3) A 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**

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

- (a) the licensed provider; or
- (b) any participating regulator or interested person to whom a copy of the show cause notice is given.

### **Immediate suspension**

**48.(1)** The Minister may suspend an interactive gambling 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 interactive games by the licensed provider is not jeopardised in a material way.

**(2)** The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the licensed provider 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 licensed provider**

**49.(1)** This section applies if the Minister—

- (a) believes a ground exists to suspend or cancel an interactive

gambling licence; but

- (b) does not believe the giving of a show cause notice to the licensed provider 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 an interactive gambling licence; but
- (b) does not believe suspension or cancellation of the licence is warranted.

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

### **Direction to rectify**

**50.(1)** This section applies if—

- (a) the Minister believes—
  - (i) a ground exists to suspend or cancel an interactive gambling licence; but
  - (ii) it is appropriate to give the licensed provider an opportunity to rectify the matter without giving a show cause notice; and
- (b) the licensed provider has been given written notice that the Minister proposes to give a direction under this section and a reasonable opportunity to make representations about the proposed direction.

(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 an interactive gambling licence; but
- (b) believes it is appropriate to give the licensed provider an opportunity to rectify the matter.

(3) The Minister may, by written notice given to the licensed provider, direct the licensed provider to rectify the matter within the period stated in

the notice.

(4) The notice must state the reasons for the decision to give the direction.

(5) The period stated in the notice must be reasonable having regard to the nature of the matter to be rectified.

(6) A licensed provider must comply with a direction under this section.

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

### **Notice referring question of disciplinary action to Governor in Council**

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

- (a) a ground exists to suspend or cancel the interactive gambling 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 interactive games by the licensed provider may be jeopardised in a material way; or
  - (ii) the public interest may be affected in an adverse or material way.

(2) This section also applies if, after considering the accepted representations for a show cause notice, the Minister directs the licensed provider to rectify a matter and the licensed provider fails to comply with the direction within the time allowed for compliance.

(3) The Minister must forward to the Governor in Council—

- (a) written notice of the Minister's belief or of the licensed provider's failure to comply with the direction; and
- (b) copies of the accepted representations for the show cause notice.

### **Suspension, cancellation and appointment of administrator**

**52.(1)** After receiving the notice from the Minister under section 51, the

Governor in Council may—

- (a) if the proposed action stated in the show cause notice was to suspend the interactive gambling 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 interactive gambling licence—
  - (i) suspend the licence for a period; or
  - (ii) cancel the licence; or
  - (iii) appoint an administrator to conduct the operations of the licensed provider under the licence; or
- (c) direct the Minister to censure the licensed provider.

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

(3) A decision to suspend or cancel the licence, or to appoint an administrator, takes effect on the later of the following—

- (a) the day the notice is given to the licensed provider;
- (b) if a later day is stated in the notice—the later day.

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

**53.(1)** This section applies to an administrator appointed by the Governor in Council to conduct operations under an interactive gambling 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 licensed provider conducted under the interactive gambling licence (including authorised games that had been commenced but not completed as at the time of the administrator's appointment); and
- (b) subject to any directions by the Minister, must conduct the operations as required by this Act as if the administrator were the

licensed provider.

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

(5) Any profits derived from the conduct of the licensed provider's operations by the administrator are, after payment of the costs of administration, to be paid to the licensed provider.

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

**54.(1)** If an interactive gambling licence is under suspension, the Governor in Council may at any time—

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

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

### ***Division 4—Investigations into suitability***

#### **Audit program**

**55.(1)** The Minister may approve an audit program for investigating licensed providers and their business or executive associates.

(2) The chief executive is responsible for ensuring that investigations under an approved audit program are conducted in accordance with the program.

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

#### **Investigations**

**56.(1)** The chief executive may investigate a licensed provider to help the Minister decide whether the licensed provider is a suitable person to hold, or to continue to hold, an interactive gambling licence.

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

(3) However, the chief executive may investigate a licensed provider only if—

- (a) the Minister reasonably suspects the licensed provider is not, or is no longer, a suitable person to hold an interactive gambling licence; or
- (b) the investigation is made under an audit program for licensed providers approved by the Minister.

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

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

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

**57.(1)** In investigating a licensed provider, or a business or executive associate of a licensed provider, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

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

person has a reasonable excuse.

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

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

**58.(1)** If the chief executive, in making an investigation about a person under section 35 or 56<sup>1</sup> asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

### **Decisions about interactive gambling licence not to be justiciable**

**59.(1)** A decision of the Governor in Council or Minister made, or appearing to be made, under this Act about an interactive gambling licence, a person with an interest or potential interest in an interactive gambling licence, the authorisation (or revocation of the authorisation) of an interactive game or the approval (or cancellation of the approval) of an exemption scheme—

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<sup>1</sup> Section 35 (Investigations of suitability of persons) or 56 (Investigations)

- (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 decision 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—KEY PERSONS

### *Division 1—Requirement for key persons to be licensed*

#### Meaning of “key person” and “key relationship”

60.(1) A “key person” is a person who—

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to operations carried out under an interactive gambling licence or the business of the licensed provider; or
- (b) is in a position to control or exercise significant influence over the

- operations conducted under an interactive gambling licence; or
- (c) occupies or acts in a position designated in the licensed provider's approved control system as a key position; or
  - (d) occupies a position with, or carries out functions for, a licensed provider that make the person a key person under criteria prescribed under a regulation; or
  - (e) is a business or executive associate of a licensed provider designated by the chief executive, by written notice given to the licensed provider, as a key person.

(2) Subsection (1)(a) and (b) applies to a position only if the position is designated by the chief executive by written notice given to the licensed provider as a key position.

(3) Subsection (1)(a) applies to functions only if the functions are designated by the chief executive by written notice given to the licensed provider as key functions.

(4) A “**key relationship**” is a relationship (other than a familial relationship) between a licensed provider and another person as a result of which the other person is a key person.

### **Obligation to hold licence**

**61.(1)** A person must not accept employment as a key person, or agree to carry out as an employee the duties of a key person, unless the person is a key person licensee.

Maximum penalty—40 penalty units.

(2) A licensed provider must not employ a person to carry out the functions of a key person, unless the person is a key person licensee.

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

### **Requirement that key person apply for licence or end role**

**62.(1)** If the chief executive reasonably believes a person (other than a key person licensee) is a key person, the chief executive may, by written notice given to the person, require the person either to apply for a key person licence or to terminate the relevant key relationship, 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 relevant licensed provider.

### **Requirement that key person end role**

**63.(1)** If the chief executive refuses to approve an application for a key person licence made by a person of whom a requirement has been made under section 62, the chief executive may, by written notice given to the person, require the person to terminate the relevant key relationship within the time stated in the notice.

(2) The person must comply with the requirement within the time stated in the notice, unless the person has a reasonable excuse.

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

(3) A person does not incur any liability as a result of action taken to comply with a notice under this section.

### **Requirement to end key person's role**

**64.(1)** This section applies if a requirement is made of a person under section 62 and—

- (a) the person fails to comply with the requirement; or
- (b) the chief executive refuses to approve an application for a key person licence made by the person.

(2) This section also applies if a requirement is made of a person under section 63 and the person fails to comply with the requirement.

(3) The chief executive may, by written notice given to the licensed provider with whom the key relationship exists, require the licensed provider to take any necessary action to terminate the key relationship within the time stated in the notice.

(4) The licensed provider must comply with the requirement.

(5) This section applies to a licensed provider despite another Act or law.

(6) A licensed provider does not incur any liability because of action taken to comply with a notice under this section.

### *Division 2—Applications for, and issue of, key person licences*

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

**65.(1)** An application for a key person licence must be made to the chief executive in the approved form.

(2) An application must be accompanied by—

- (a) if a key relationship exists or is proposed with a licensed provider—a letter from the licensed provider addressed to the chief executive confirming the existence or proposed existence of the key relationship; and
- (b) any documents prescribed under a regulation; and
- (c) the application fee prescribed under a regulation.

(3) The chief executive may, by written notice given to an applicant for a key person licence, require the applicant to give the chief executive further information or a document that is necessary and reasonable to help the chief executive decide the application.

#### **Consideration of application**

**66.(1)** The chief executive must consider an application for a key person licence and either grant or refuse to grant the application.

(2) Despite subsection (1), the chief executive is required to consider an application only if the applicant agrees to having the applicant's photograph and fingerprints taken.

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

**67.(1)** The chief executive may grant an application for a key person licence only if—

- (a) the applicant's photograph and fingerprints have been taken; and
- (b) the chief executive is satisfied the applicant is a suitable person to hold a key person licence.

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

- (a) the applicant's character;
- (b) the applicant's current financial position and financial background;
- (c) the applicant's general suitability to carry out functions for a licensed provider as a key person.

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

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

### **Decision on application**

**69.(1)** If the chief executive decides to grant an application for a key person licence, the chief executive must promptly—

- (a) issue a key person licence to the applicant; and
- (b) give written notice of the grant of the licence to the relevant licensed provider.

(2) If the chief executive decides to refuse to grant an application for a key person licence, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) give a copy of the notice to the relevant licensed provider.

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

**70.(1)** A key person licence must be in the approved form.

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

particulars—

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

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

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

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

**72.** A key person licence lapses if there has been no key relationship between the key person licensee and a licensed provider for a continuous period of 1 year.

### **Conditions**

**73.(1)** The chief executive may issue a key person licence—

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

**(2)** If the chief executive decides to issue a key person licence on conditions, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) give a copy of the notice to the relevant licensed provider.

### **Changing conditions of key person licence**

**74.(1)** The chief executive may decide to change the conditions of a key person licence if the chief executive considers it necessary or desirable to

make the change for the proper conduct of interactive games or otherwise in the public interest.

(2) If the chief executive decides to change the conditions of a key person licence, the chief executive must promptly—

- (a) give the key person licensee an information notice about the decision; and
- (b) if the chief executive believes there is currently a key relationship between the key person licensee and a licensed provider—give the licensed provider a copy of the information notice.

(3) The key person licensee must return the licence to the chief executive within 7 days of receiving the information notice, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) On receiving the licence, the chief executive must—

- (a) amend the licence in an appropriate way and return the amended licence to the key person licensee; or
- (b) if the chief executive does not consider it practicable to amend the licence—issue another key person licence, incorporating the changed conditions, to the key person licensee to replace the licence returned to the chief executive.

(5) The change of conditions does not depend on the licence being amended to record the change or a replacement licence being issued.

(6) The change of conditions takes effect—

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

(7) The power of the chief executive under subsection (1) includes the power to add conditions to an unconditional licence.

### **Replacement of key person licence**

**75.(1)** A key person licensee may apply to the chief executive for the replacement of the licensee's licence if it has been lost, stolen, destroyed or

damaged.

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

(3) The chief executive must grant the application if the chief executive is satisfied the licence has been lost, stolen or destroyed, or damaged in a way to require its replacement.

(4) If the chief executive decides to grant an application, the chief executive must, on payment of the fee prescribed under a regulation, issue another key person licence to the applicant to replace the lost, stolen, destroyed or damaged licence.

(5) If the chief executive decides to refuse to grant an application, the chief executive must promptly—

- (a) give the key person licensee an information notice about the decision; and
- (b) if the chief executive believes there is currently a key relationship between the key person licensee and a licensed provider—give the licensed provider a copy of the information notice.

### **Surrender of key person licence**

**76.(1)** A key person licensee may surrender the licence by written notice given to the chief executive.

(2) The surrender takes effect on—

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

(3) If the chief executive believes there was a key relationship between the key person licensee and a licensed provider at the time of the surrender, the chief executive must promptly give notice of the surrender to the licensed provider.

***Division 3—Suspension and cancellation of key person licences*****Grounds for suspension or cancellation**

**77.(1)** Each of the following is a ground for suspending or cancelling the key person licence of a key person licensee—

- (a) the licensee is not, or is no longer, a suitable person to hold a key person licence;
- (b) the licensee has been convicted of an offence against this Act, a gaming Act or a corresponding law;
- (c) the licensee has been convicted of an indictable offence;
- (d) the licensee has contravened a condition of the licence;
- (e) the licensee has contravened a provision of this Act or a corresponding law (being a provision a contravention of which does not constitute an offence);
- (f) the licence was obtained by a materially false or misleading representation or declaration or in some other improper way.

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

**Show cause notice**

**78.(1)** If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must—

- (a) give the key person licensee a written notice under this section (a **“show cause notice”**); or
- (b) if the chief executive believes it is appropriate to give the key person licensee an opportunity to rectify the matter without giving a show cause notice—take action under section 81.

**(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 key person 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 be a period ending not less than 21 days after the show cause notice is given to the key person licensee.

(4) If the chief executive believes there is a key relationship between the key person licensee and a licensed provider—

- (a) the chief executive must promptly give a copy of the show cause notice to the licensed provider; and
- (b) the licensed provider 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 key person licensee; or
- (b) a licensed provider to whom a copy of the show cause notice is given.

### **Immediate suspension**

**79.(1)** The chief executive may suspend a key person licence immediately if the chief executive believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) it is necessary to suspend the licence immediately—
  - (i) in the public interest; or
  - (ii) to ensure the integrity of the conduct of interactive games is not jeopardised.

(2) The suspension—

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

(3) The suspension notice must state the reason for the decision to suspend the key person licence immediately.

(4) If the chief executive believes there is a key relationship between the key person licensee and a licensed provider, the chief executive must promptly give a copy of the suspension notice to the licensed provider.

### **Censuring key person licensee**

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

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

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

(3) The notice must state the reason for the decision to censure the key person licensee.

(4) If the chief executive believes there is currently a key relationship between the key person licensee and a licensed provider, the chief executive must promptly give a copy of the notice to the licensed provider.

### **Direction to rectify**

**81.(1)** This section applies if—

- (a) the chief executive believes—

- (i) a ground exists to suspend or cancel a key person licence; but
  - (ii) it is appropriate to give the key person licensee an opportunity to rectify the matter without giving a show cause notice; and
- (b) the key person licensee has been given written notice that the chief executive proposes to give a direction under this section and a reasonable opportunity to make representations about the proposed direction.
- (2) This section also applies if, after considering the accepted representations for a show cause notice, the chief executive—
- (a) still believes a ground exists to suspend or cancel a key person licence; but
  - (b) believes it is appropriate to give the key person licensee an opportunity to rectify the matter.
- (3) The chief executive may, by written notice given to the key person licensee, direct the licensee to rectify the matter within the period stated in the notice.
- (4) The notice must state the reasons for the decision to give the direction.
- (5) The period stated in the notice must be reasonable having regard to the nature of the matter to be rectified.
- (6) If the chief executive believes there is currently a key relationship between the key person licensee and a licensed provider, the chief executive must promptly give a copy of the notice to the licensed provider.
- (7) A key person licensee must comply with a direction under this section.

Maximum penalty for subsection (7)—20 penalty units.

### **Suspension and cancellation of key person licence**

**82.(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 the key person licence; and
- (b) believes suspension or cancellation of the licence is warranted.

(2) This section also applies if, after considering the accepted representations for a show cause notice, the chief executive directs the key person licensee to rectify a matter and the licensee fails to comply with the direction within the time allowed for compliance.

(3) The chief executive may—

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

(4) The chief executive must promptly—

- (a) give an information notice about the decision to the key person licensee; and
- (b) if the chief executive believes there is currently a key relationship between the key person licensee and a licensed provider—give a copy of the information notice to the licensed provider.

(5) The decision takes effect on—

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

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

**83.(1)** At any time the suspension of a key person licence is in force, the chief executive may—

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

(2) The chief executive may cancel or reduce the period only if the chief

executive considers it appropriate to take the action.

(3) The chief executive must promptly give written notice of the decision to—

- (a) the key person licensee; and
- (b) if the chief executive believed there was a key relationship between the key person licensee and a licensed provider when the key person licence was suspended—the licensed provider.

#### *Division 4—Investigation of key person licensees*

##### **Audit program**

**84.(1)** The chief executive may approve an audit program for investigating key person licensees.

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

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

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

**85.(1)** The chief executive may investigate a key person licensee to find out whether the licensee is a suitable person to hold, or to continue to hold, a key person licence.

(2) However, the chief executive may investigate a key person licensee under this section only if—

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

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

**86.(1)** In investigating a key person licensee, the chief executive may, by written notice given to the licensee, require the licensee to give the chief executive information or a document the chief executive considers relevant to the investigation.

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

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

**Reports about criminal history**

**87.(1)** If the chief executive, in making an investigation under section 68 or 85<sup>2</sup> into the suitability of a person to hold, or to continue to hold, a key person licence, asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

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<sup>2</sup> Section 68 (Investigation of suitability of applicant) or 85 (Investigations into suitability of key person licensees)

***Division 5—Requirements about employment*****Notice of start of employee's employment**

**88.** Within 7 days after a key person licensee starts employment with a licensed provider, the licensed provider must notify the chief executive of the start of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

**Returns about employees**

**89.(1)** The chief executive may, by written notice given to a licensed provider, require the licensed provider 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 licensed provider is given a notice under subsection (1), the licensed provider must give a return as required by this section listing the employees currently employed by the licensed provider (including both those who are key person licensees and those who are not) and the nature of the duties in which each of them is engaged.

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.

***Division 6—Requirements about key relationships*****Notice of end of key relationship**

**90.** Within 7 days after a key relationship between a licensed provider and another person terminates or is terminated, the licensed provider must

notify the chief executive of the end of the relationship by notice in the approved form.

Maximum penalty—40 penalty units.

### **Requirement to end key relationship**

**91.(1)** This section applies if—

- (a) a key relationship exists between a licensed provider and a key person licensee; and
- (b) the key person licence is cancelled or suspended, or the key person licensee ceases to hold a key person licence for some other reason.

**(2)** The chief executive may, by written notice given to the licensed provider, require the licensed provider to terminate the key relationship within the time stated in the notice.

**(3)** The licensed provider must comply with the requirement.

**(4)** This section applies to a licensed provider despite another Act or law or any industrial award or agreement.

**(5)** A licensed provider does not incur any liability by complying with a requirement of the chief executive under this section.

## ***Division 7—General***

### **False statements by applicants**

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

Maximum penalty—40 penalty units.

### **Destruction of fingerprints**

**93.(1)** This section applies if—

- (a) an application for a key person licence is refused; or

- (b) a key person licence is surrendered; or
- (c) a key person licence lapses; or
- (d) a key person licence is cancelled.

(2) The chief executive must have any fingerprints of the applicant or the former key person licensee taken for the application for the key person licence destroyed as soon as practicable.

(3) However, if an application for a key person licence is refused, or a key person licence is cancelled, the fingerprints are not to be destroyed until the end of the time allowed for starting an appeal or, if there is an appeal, until the appeal is decided.

## PART 5—AGENTS

### *Division 1—Agency agreements*

#### **Meaning of “agent”**

**94.(1)** A person is an “agent” if the person carries out any of the following functions, in or outside Queensland, for a licensed provider—

- (a) registering a player;
- (b) establishing a players account;
- (c) accepting deposits for, or authorising withdrawals from, a players account;
- (d) other functions classified as agency functions under a regulation.

#### *Example—*

A particular kind of promotional activity related to interactive games might be classified under a regulation as an agency function.

(2) A person is also an “agent” if the person carries out in Queensland any of the functions mentioned in subsection (1) for an external provider.

**Meaning of “agency agreement”**

**95.** An “**agency agreement**” is an agreement between a licensed provider and another person—

- (a) appointing the other person as an agent; and
- (b) dealing with the agent’s authority; and
- (c) stating the conditions under which the agent acts as, and remains, an agent of the licensed provider; and
- (d) stating other matters agreed between the agent and the licensed provider.

**Conditions for entering into agency agreement**

**96.(1)** A licensed provider may only appoint a person as an agent for the licensed provider if—

- (a) the person is—
  - (i) in the case of an individual—at least 18 years of age; and
  - (ii) eligible to be an agent under criteria prescribed under a regulation; and
- (b) the appointment is made under an agency agreement—
  - (i) in a form approved by the chief executive; and
  - (ii) stating the agent’s place of operation; and
  - (iii) including any other provisions required by the chief executive.

**(2)** The chief executive must not require the inclusion of a provision in an agency agreement unless the chief executive believes on reasonable grounds that the inclusion of the provision is reasonably necessary to ensure—

- (a) that the integrity of the conduct of interactive games is not jeopardised in a material way; or
- (b) the public interest is not affected in an adverse and material way.

**(3)** A licensed provider must not appoint, or purport to appoint, a person as an agent otherwise than as permitted by this section.

Maximum penalty for subsection (3)—200 penalty units or 2 years imprisonment.

### **Notice of agency agreement**

**97.** Within 7 days after entering into an agency agreement, the licensed provider must give the chief executive a copy of the agreement.

### **Amendment of agency agreement**

**98.(1)** An agency agreement may only be amended with the written approval of the chief executive.

**(2)** The chief executive may withhold approval of a proposed amendment only if it is necessary to do so in the public interest or to protect proper standards of integrity in the conduct of interactive games.

### **Returns about agents**

**99.(1)** A licensed provider must give a return as required by this section listing the provider's current agents.

Maximum penalty—40 penalty units.

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

## ***Division 2—Terminating agency agreements***

### **Grounds for termination**

**100.(1)** Each of the following is a ground for directing the termination of an agency agreement—

- (a) the agent is not, or is no longer, a suitable person to be an agent;
- (b) a business or executive associate of the agent is not, or is no longer, a suitable person to be associated with an agent's operations;

- (c) the agent has been convicted of an offence against this Act, a gaming Act or a corresponding law;
- (d) the agent has been convicted of an indictable offence;
- (e) the agent has contravened a provision of this Act or a corresponding law (being a provision a contravention of which does not constitute an offence).

(2) Also, it is a ground for directing the termination of an agency agreement if the agent is not, or is no longer, eligible to be an agent for a licensed provider.

(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 agent's character or business reputation;
- (b) the agent's current financial position and financial background;
- (c) the agent's general suitability to act as an agent for a licensed provider.

(4) For forming a belief that the ground mentioned in subsection (1)(b) exists, the chief executive may have regard to the business or executive associate's character or business reputation, and current financial position and financial background.

### **Show cause notice**

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

- (a) a ground exists for directing the termination of an agency agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
  - (i) the integrity of the conduct of interactive games by the licensed provider may be jeopardised; or
  - (ii) the public interest may be affected adversely.

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

- (a) states that the chief executive proposes to take action (the **“proposed action”**) to direct the licensed provider to terminate the agency agreement; and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) invites the agent to show within a stated period (the **“show cause period”**) why the proposed action should not be taken.

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

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

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

### **Suspending agent’s operations**

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

- (a) a ground exists to direct the termination of an agency agreement; and
- (b) it is necessary to suspend the agent’s operations—
  - (i) in the public interest; or
  - (ii) to ensure the integrity of the conduct of interactive games by the licensed provider is not jeopardised.

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

**(3)** The suspension—

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

**(5)** The chief executive must promptly give a copy of the suspension notice to the licensed provider.

**(6)** An agent must not carry on operations while the agent’s operations are suspended.

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

### **Censuring agent**

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

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

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

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

(5) The chief executive must promptly give a copy of the notice to the licensed provider.

### **Direction to rectify**

**104.(1)** This section applies if—

- (a) the chief executive believes—
  - (i) a ground exists to direct the termination of the agency agreement; but
  - (ii) it is appropriate to give the agent an opportunity to rectify the matter without giving a show cause notice; and
- (b) the agent and the licensed provider by which the agent was appointed have been given written notice that the chief executive proposes to give a direction under this section and a reasonable opportunity to make representations about the proposed direction.

(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 the agency agreement; but
- (b) believes it is appropriate to give the agent an opportunity to rectify the matter.

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

(4) The notice must state the reasons for the decision to give the direction.

(5) The period stated in the notice must be reasonable having regard to the nature of the matter to be rectified.

(6) The chief executive must promptly give a copy of the notice to the licensed provider by which the agent was appointed.

(7) An agent must comply with a direction under this section.

Maximum penalty for subsection (7)—20 penalty units.

**Directions to terminate affecting agents**

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

- (a) a ground exists to direct the termination of the agency agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
  - (i) the integrity of the conduct of interactive games by the licensed provider may be jeopardised; or
  - (ii) the public interest may be affected adversely.

**(2)** This section also applies if, after considering the accepted representations for a show cause notice, the chief executive directs the agent to rectify a matter and the agent fails to comply with the direction within the time allowed for compliance.

**(3)** The chief executive may, by written notice given to the licensed provider, direct the licensed provider to terminate the agreement within the time stated in the notice.

**(4)** If the chief executive decides to give a direction under this section, the chief executive must promptly give written notice of the decision to the agent affected by the decision.

**(5)** A notice under subsection (3) or (4) must state—

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

**Termination of agreement**

**106.(1)** If the chief executive directs a licensed provider to terminate an agency agreement, the licensed provider 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 licensed provider 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 licensed provider under subsection (1) or by this Act.

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

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

**107.(1)** This section applies if an agency agreement is terminated otherwise than because of a direction to terminate the agreement given to the licensed provider by the chief executive.

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

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

### ***Division 3—Investigations into suitability***

#### **Audit program**

**108.(1)** The chief executive may approve an audit program for investigating agents and their business and executive associates.

(2) The chief executive is responsible for ensuring that investigations of agents and their business and executive associates are conducted under an approved audit program in accordance with the program.

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

#### **Investigations**

**109.(1)** The chief executive may investigate an agent to help the chief

executive decide whether the person is, or continues to be, a suitable person to be an agent.

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

(3) However, the chief executive may investigate an agent, or a business or executive associate of an agent, only if—

- (a) the chief executive reasonably suspects the person is not, or is no longer, a suitable person to be an agent, or to be associated with an agent's operations; or
- (b) the investigation is made under an audit program for agents and their business and executive associates approved by the chief executive.

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

**110.(1)** In investigating an agent or a business or executive associate of an agent, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

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

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

**Reports about person's criminal history**

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

(2) The report is to contain—

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

**PART 6—LICENCE FEES AND TAX***Division 1—Licence fees***Liability to licence fee**

**112.** A licensed provider must pay licence fees as required under the conditions of the interactive gambling licence.

*Division 2—Interactive gambling tax***Liability to tax**

**113.(1)** A licensed provider must pay a tax (“**interactive gambling tax**”) to the chief executive for each authorised game conducted by the licensed provider.

(2) Interactive gambling tax is to be calculated and paid on a basis fixed under a regulation.

(3) Rates of tax may be fixed having regard to the rates of tax payable under corresponding laws.

**Returns for calculation of tax**

**114.** Within 7 days after the end of each month, a licensed provider must give the chief executive a return in an approved form containing—

- (a) the information for calculating interactive gambling tax on games conducted by the licensed provider during the relevant month; and
- (b) other information required under a regulation.

Maximum penalty—40 penalty units.

**Participating jurisdictions tax entitlement**

**115.(1)** From time to time (as contemplated in the intergovernmental agreement), the Minister must remit to a participating regulator a proportion of the interactive gambling tax collected or recovered from licensed providers (“**interactive gambling tax revenue**”).

**(2)** The amount to be remitted must reflect—

- (a) the contribution of players in the participating jurisdiction to the total gambling turnover of licensed providers; and
- (b) the proportion of interactive gambling tax revenue properly attributable to that contribution.

**(3)** Amounts may be remitted under this section without further appropriation.

**Payment of tax for community benefit**

**116.(1)** The Minister must deal with the following amounts as required by subsection (2)—

- (a) amounts collected or recovered by way of interactive gambling tax collected or recovered that are not required for payment to participating jurisdictions under this division;
- (b) amounts received from participating jurisdictions under the tax-sharing arrangements.

**(2)** The amounts are to be dealt with as follows—

- (a) a proportion prescribed under a regulation is to be paid into a fund

established for community benefit under a gaming Act and stated in the regulation;

(b) the balance is to be paid into the consolidated fund.

(3) Amounts may be paid under this section without further appropriation.

### *Division 3—Recovery and penalties*

#### **Penalty for late payment**

**117.(1)** A licensed provider must pay to the chief executive a penalty on an amount of interactive gambling tax or licence fee outstanding (the “**unpaid amount**”) as at the end of the period allowed for payment.

(2) The penalty is the percentage prescribed under a regulation of the unpaid amount.

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

(a) 1 month after the end of the period allowed for payment of the unpaid amount; and

(b) at the end of each succeeding month starting—

(i) on the day of the month corresponding to the day mentioned in paragraph (a); or

(ii) if there is no corresponding day on the first day of the following month.

(4) The additional penalty is the percentage prescribed under a regulation of each unpaid or other amount for which the penalty is payable.

(5) A penalty, or a part of a penalty, is not payable if the chief executive, for a reason the chief executive considers appropriate, decides the penalty, or the part of the penalty, need not be paid.

**Recovery of amounts**

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

**Revenue offences**

**119.(1)** A licensed provider must not—

- (a) evade the payment of an amount payable by the licensed provider as interactive gambling tax or licence fee; or
- (b) give the chief executive a return containing information the licensed provider knows to be false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(2)** Subsection (1)(b) does not apply to a licensed provider if the licensed provider, when giving the return—

- (a) informs the chief executive in writing, to the best of the licensed provider's ability, how the return is false, misleading or incomplete; and
- (b) if the licensed provider has, or can reasonably obtain, the correct information—gives the correct information.

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

## **PART 7—COMPLIANCE REQUIREMENTS**

### *Division 1—Rules and directions*

#### **Rules**

**120.(1)** The Minister may make rules about the following—

- (a) the conduct of authorised games by licensed providers;
- (b) prizes in authorised games conducted by licensed providers;
- (c) other matters on which it is appropriate to make rules for this Act.

**(2)** Rules are subordinate legislation.

**(3)** A licensed provider may make submissions to the Minister about a rule or proposed rule.

#### **Directions**

**121.(1)** The chief executive may, by written notice given to licensed providers, give directions about the conduct of authorised games by licensed providers.

**(2)** A licensed provider may make submissions to the chief executive about a direction or proposed direction.

#### **General responsibilities of licensed provider**

**122.** A licensed provider must comply with—

- (a) the rules; and
- (b) any relevant direction.

Maximum penalty—40 penalty units.

#### **Responsibility of licensed provider to ensure compliance by agent**

**123.** The licensed provider by which an agent was appointed must take reasonable steps to ensure—

- (a) the agent is aware of the requirements of the rules and any relevant direction; and
- (b) the agent complies with requirements of the rules and any relevant direction.

Maximum penalty—40 penalty units.

### **Responsibility of agent**

**124.(1)** An agent must comply with the rules and any relevant direction.

Maximum penalty—40 penalty units.

(2) However, it is a defence to a charge against an agent for non-compliance with a direction to prove that the agent did not know, and could not reasonably be expected to have known, of the requirements of the direction.

## *Division 2—Place of operation*

### **Licensed provider's place of operation**

**125.(1)** A licensed provider must not conduct an authorised game unless the place of operation from which the game is conducted is approved by the chief executive.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A licensed provider must ensure that all regulated interactive gambling equipment used by the licensed provider for the conduct of authorised games is situated at—

- (a) the approved place of operation; or
- (b) some other place approved by the chief executive for the purpose.

Maximum penalty—50 penalty units.

### **Agent's place of operation**

**126.** An agent must not carry on operations in Queensland at a place other than a place that—

- (a) is of a kind prescribed under a regulation as appropriate for an agent; and
- (b) if the agent is an agent for a licensed provider—is stated in the agency agreement as the agent’s place of operation.

Maximum penalty—200 penalty units or 2 years imprisonment.

### *Division 3—Control systems*

#### **Authorised games to be conducted under an approved control system**

**127.(1)** A licensed provider may conduct an authorised game only if—

- (a) the licensed provider has an approved control system; and
- (b) the game is conducted under the system.

**(2)** A licensed provider may change the 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**

**128.(1)** A licensed provider may make a submission (a “**control system submission**”) to the chief executive for approval of the licensed provider’s proposed control system.

**(2)** A control system submission must be made in writing—

- (a) at least 90 days before the licensed provider proposes to start conducting interactive games; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—within the time allowed by the chief executive.

**(3)** A control system submission must describe and explain the licensed provider’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 interactive 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 interactive games; and
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of interactive games; and
- (d) the procedures for recording and paying prizes won in interactive 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**

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

**(2)** A control system (change) submission must be made in writing—

- (a) at least 90 days before the licensed provider proposes to start conducting interactive games under the approved control system as proposed to be changed; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time within the time allowed by the chief executive.

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

**Consideration of, and decisions about, submissions**

**130.(1)** This section applies to a control system submission or control system (change) submission made to the chief executive by a licensed provider.

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

(3) In considering the submission, the chief executive may, by written notice given to the licensed provider, require the licensed provider—

- (a) 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; or
- (b) to allow the chief executive to submit the proposed control system, or the approved control system as proposed to be changed, to tests.

(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 licensed provider'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 interactive games.

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

(6) The chief executive must promptly give the licensed provider 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 must also—

- (a) explain how the submission may be changed; and

- (b) invite the licensed provider to resubmit the submission after making the appropriate changes.

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

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

- (2) The licensed provider must comply with the direction.

Maximum penalty—100 penalty units.

(3) If the licensed provider does not comply with the direction, the approval for the licensed provider's control system is cancelled.

### ***Division 4—Dealings involving players accounts***

### **Funds in player's account to be remitted on demand**

**132.** A licensed provider must, at the request of the registered player in whose name a player's account is established, remit funds standing to the credit of the account as directed by the player no later than the first business day after the request is received.

Maximum penalty—100 penalty units.

### **Licensed provider or agent not to act as credit provider**

**133.(1)** A licensed provider or an agent must not provide credit to a player or a player's account.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A licensed provider or an agent must not act as agent for a credit provider to facilitate the provision of credit to a player or a player's account.

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

**Licensed providers limited recourse to players accounts**

**134.** A licensed provider must not have recourse to funds in a players account except as follows—

- (a) to debit to the account a wager made by the player or an amount the player indicates the player wants to wager in the course of an authorised game the player is playing or about to play;
- (b) to remit funds standing to the credit of the account to the player at the players request; or
- (c) as otherwise authorised under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

**Inactive players accounts**

**135.** If no transaction has been recorded on a players account for a period fixed under a regulation, the licensed provider must remit any remaining balance to—

- (a) the player; or
- (b) if the player cannot be found—an account at the department designated under a regulation as the account to which payments are to be made under this paragraph.

***Division 5—Responsible gambling*****Limitation on amount wagered**

**136.(1)** A registered player may, by written notice to a licensed provider, set a limit on the amount the player may wager.

*Examples—*

1. The player might set a limit in relation to a particular game the player is about to play.
2. The player might set a limit by reference to a stated maximum for all games conducted by the licensed provider over a stated period (eg a limit of \$100 over 1 month).

3. The player might set the limit at zero thus effectively preventing himself or herself from engaging in authorised games conducted by the licensed provider until the limit is relaxed or removed.

(2) A player who has set a limit under this section may change or revoke the limit by written notice given to the licensed provider.

(3) A notice increasing or revoking the limit does not have effect unless—

- (a) 7 days have passed since the provider received the notice; and
- (b) the player has not notified the provider of an intention to withdraw the notice.

(4) A notice reducing the limit has effect on its receipt by the licensed provider.

(5) A licensed provider must not accept a wager from a player contrary to a limit set for the player under this section.

Maximum penalty for subsection (5)—100 penalty units.

### **Prohibition of interactive gambling**

**137.(1)** An application may be made to the chief executive in the approved form for an order—

- (a) prohibiting a person who is resident in Queensland from participating in authorised games; or
- (b) revoking an order under paragraph (a).

(2) An application may only be made under this section by—

- (a) a person who seeks a prohibition (or the revocation of a prohibition) against himself or herself; or
- (b) a person who satisfies the chief executive of a close personal interest in the welfare of the person against whom the prohibition is sought.

(3) If the application is made by a person other than the person against whom the prohibition is sought or has been imposed (the “**affected person**”), the chief executive must—

- (a) give the affected person written notice of the application and the reasons for it; and
- (b) invite the affected person to make representations to the chief executive about the application within a reasonable time stated in the notice.

(4) The chief executive must consider representations from the applicant, and if the applicant is not the affected person, the affected person.

(5) If the chief executive is satisfied the order sought in the application should be made in the interests of the affected person and the public interest, the chief executive may make the order.

(6) The chief executive must—

- (a) give written notice to the applicant and, if the affected person is not the applicant, the affected person—
  - (i) stating the chief executive's decision and the reasons for it; and
  - (ii) in the case of a written notice given to an applicant whose application has been refused—stating that the applicant may appeal against the decision to the Queensland Gaming Commission within 28 days; and
  - (iii) in the case of a written notice given to a person who is not the applicant but is affected by an order made on the application—stating that the affected person may appeal against the decision to the Queensland Gaming Commission within 28 days; and
- (b) if an order is made on the application—give copies of the order to—
  - (i) the affected person; and
  - (ii) all authorised providers; and
  - (iii) all participating regulators.

(7) An authorised provider to whom a copy of an order imposing a prohibition has been given must not accept a wager from a person, or allow a person to participate in any other way in an authorised game, contrary to the prohibition.

Maximum penalty—200 penalty units.

(8) An application under subsection (1)(a) must be accompanied by the fee fixed by the chief executive.

### *Division 6—Gambling records*

#### **Notices about keeping gambling records**

**138.(1)** The chief executive may, by written notice given to a licensed provider—

- (a) approve a place (the “**approved place**”) nominated by the licensed provider (other than the licensed provider’s public office) as a place for keeping the licensed provider’s gambling records; or
- (b) specify a gambling record of the licensed provider (an “**exempt gambling record**”) that is not required to be kept at the licensed provider’s public office or an approved place; or
- (c) specify a gambling record of the licensed provider that may be kept temporarily at a place other than the licensed provider’s public office or an approved place, and the period for which, or the circumstances in which, the record may be kept at the other place; or
- (d) approve the keeping of information contained in a gambling record in a way different from the way the information was kept when the record was being used by the licensed provider; or
- (e) approve the destruction of a gambling record the chief executive considers need not be kept.

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

reason for the record to be kept at a place other than the licensed provider's public office or an 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 gambling record.

### **Gambling records to be kept at certain place**

**139.(1)** A licensed provider must keep the licensed provider's gambling records at—

- (a) the licensed provider's public office; or
- (b) at an approved place for the records.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to an exempt gambling record.

### **Gambling records to be kept for required period**

**140.(1)** A licensed provider must keep a gambling record 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 gambling record if the information previously contained in the record is kept in another way under an approval of the chief executive.

(3) Also, subsection (1) does not apply to a gambling record that has been destroyed under an approval of the chief executive.

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

## ***Division 7—Financial accounts, statements and reports***

### **Keeping of accounts**

**141.** A licensed provider must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the licensed provider's operations conducted under the interactive gambling 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**

**142.(1)** A licensed provider must prepare financial statements and accounts as required by this section giving a true and fair view of the licensed provider's financial operations conducted under the interactive gambling 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**

**143.(1)** A licensed provider must give reports to the chief executive as required by this section about the licensed provider's operations under the interactive gambling licence.

Maximum penalty—40 penalty units.

(2) The reports must be given at the times stated in a written notice given to the licensed provider by the chief executive.

(3) A report must be in the approved form.

(4) The chief executive may, by written notice given to a licensed provider, require the provider 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 licensed provider's operations.

(5) A licensed provider must comply with a requirement under subsection (4) within the time stated in the notice, unless the licensed provider has a reasonable excuse.

Maximum penalty—40 penalty units.

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

Maximum penalty—100 penalty units.

(7) Subsection (6) does not apply to a licensed provider if the provider, when giving the report or further information—

- (a) informs the chief executive in writing, to the best of the provider's ability, how the return or information is false, misleading or incomplete; and
- (b) if the provider has, or can reasonably obtain, the correct information—gives the correct information.

(8) It is enough for a complaint of an offence against subsection (6) to state that the report or information was false, misleading or incomplete to the defendant's knowledge.

### *Division 8—Financial institutions accounts*

#### **Keeping of accounts**

**144.** A licensed provider 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 operations conducted under the interactive gambling licence.

Maximum penalty—40 penalty units.

**Use of accounts**

**145.** A licensed provider 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 9—Audit*****Audit of licensed provider's operations**

**146.** As soon as practicable after the end of a financial year, a licensed provider must, at the licensed provider's own expense, cause the books, accounts and financial statements for the operations conducted under the interactive gambling licence for the financial year to be audited by a registered company auditor.

Maximum penalty—40 penalty units.

**Completion of audit**

**147.(1)** The auditor must—

- (a) complete the audit within 3 months after the end of the financial year; and
- (b) immediately after completion of the audit, give a copy of the audit report to the chief executive and the licensed provider.

Maximum penalty—40 penalty units.

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

**Further information following audit**

**148.(1)** On receiving a copy of the audit report, the chief executive may, by written notice given to the licensed provider, require the licensed provider to give the chief executive further information about a matter

relating to the licensed provider's operations mentioned in the audit report.

(2) A licensed provider must comply with a requirement under subsection (1) within the time stated in the notice, unless the licensed provider has a reasonable excuse.

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

### *Division 10—Ancillary and related agreements*

#### **Ancillary gambling agreement**

**149.(1)** An “**ancillary gambling agreement**” is an agreement, contract, lease or arrangement (whether written or unwritten) under which a person agrees to provide to a licensed provider a thing or service in return for a direct or indirect interest in, or percentage or share of—

- (a) amounts received by the licensed provider in the course of the licensed provider's business; or
- (b) the revenue, profit or earnings derived by the licensed provider from the licensed provider's business.

(2) However, an ancillary gambling agreement does not include an agency agreement.

(3) A licensed provider must not enter into, or be a party to, an ancillary gambling agreement without the written approval of the chief executive.

Maximum penalty—40 penalty units.

(4) However, the chief executive's approval is not required for an agreement if—

- (a) the chief executive considers the agreement to be an agreement of minor importance; or
- (b) the agreement is of a class excluded from the application of this section under a regulation.

#### **Approval of ancillary gambling agreements**

**150.(1)** A licensed provider may apply to the chief executive for approval to enter into an ancillary gambling agreement.

(2) The chief executive may give the approval if the chief executive considers it appropriate or desirable in all the circumstances for the licensed provider to enter into the agreement.

(3) An approval must be in writing.

### **Review of related agreements**

**151.(1)** The chief executive may, by written notice given to a licensed provider, require the licensed provider to give to the chief executive, within the time stated in the notice—

- (a) the information stated in the notice about a related agreement to which the licensed provider is a party; and
- (b) if the agreement is in writing—a copy of the agreement.

(2) Without limiting subsection (1), the information the chief executive may require to be given about a related 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 licensed provider must comply with the requirement within the time stated in the notice, unless the licensed provider has a reasonable excuse.

### **Show cause notice for related agreement**

**152.(1)** This section applies if, after considering the information given to the chief executive about a related agreement and, if appropriate, the contents of the agreement, the chief executive believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of interactive games by the licensed provider who is a party to the agreement; or
- (b) may affect the public interest adversely.

(2) The chief executive must give the licensed provider who is a party to the agreement a written notice (a **“show cause notice”**) that—

- (a) states that the chief executive 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 licensed provider to show within a stated period (the **“show cause period”**) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the notice is given.

(4) The chief executive 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 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 the licensed provider or an interested person.

### **Direction to terminate related agreement**

**153.(1)** The chief executive may direct the termination of a related agreement if, after considering the accepted representations for a show cause notice, the chief executive still believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of interactive games by the licensed provider 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 11—Official supervision*

#### **Monitoring operations**

**154.** A licensed provider must, at the request of the chief executive, do anything reasonably necessary to allow an inspector to monitor the licensed provider's operations.

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

**155.(1)** The chief executive may take action under this section to ensure the integrity of the conduct of an authorised game.

(2) The chief executive may, by written notice given to a licensed provider, direct the licensed provider not to do a stated thing in the conduct of an authorised game unless an inspector is present.

(3) The licensed provider must comply with the direction.

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

***Division 12—Prizes*****Payment or collection of prizes**

**156.(1)** If a player in an authorised game conducted by a licensed provider wins a monetary prize, the licensed provider must immediately credit the amount of the prize to the player.

**(2)** If a player in an authorised game conducted by a licensed provider wins a non-monetary prize, or a player without a player's account wins a monetary prize, the provider must—

- (a) have the prize delivered personally or by post to the player; or
- (b) give the player written notice of an address in Queensland at which the prize may be collected.

**Disposal of unclaimed non-monetary prizes**

**157.(1)** This section applies to a non-monetary prize in an authorised game conducted by a licensed provider that is not collected within 3 months after notification of the place at which it may be collected.

**(2)** The licensed provider—

- (a) may dispose of the prize by public auction or tender or in some other way approved by the chief executive; and
- (b) may pay for the disposal from the proceeds of sale; and
- (c) must—
  - (i) pay the remainder of the proceeds into the relevant player's account; or
  - (ii) if there is no current player's account—remit the remainder of the proceeds to the former player; or
  - (iii) if there is no current player's account and the licensed provider is unaware of the whereabouts of the former player— pay the remainder of the proceeds into an account at the department designated under a regulation as the account to which payments are to be made under this subparagraph.

**Claims for prize**

**158.(1)** If a claim for a prize in an authorised game is made to a licensed provider within 5 years after the end of the game, the licensed provider must—

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

**(2)** If the claim is not resolved, the claimant may ask the chief executive to review the licensed provider’s decision on the claim, or if the claimant has not received a claim result notice, to resolve the claim.

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

- (a) must be in the approved form; and
- (b) if the claimant received a claim result notice—must be made within 10 days after receiving the notice.

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

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

**Entitlement to prize lapses if not claimed within 5 years**

**159.** If a prize is not claimed within 5 years after the end of the authorised game in which the prize was won, the entitlement to the prize is extinguished and the prize is forfeited to the State.

***Division 13—Aborted games*****Aborted games**

**160.(1)** If, after making a wager in an authorised game conducted by a licensed provider, a player's participation in the game is interrupted by a failure of an operating or telecommunication system that prevents the player from continuing with the game, the licensed provider must refund the amount of the wager to the player as soon as practicable.

**(2)** If an authorised game conducted by a licensed provider is started but miscarries because of human error, or a failure of an operating or telecommunication system, the licensed provider—

- (a) must immediately inform the chief executive of the circumstances of the incident; and
- (b) must not conduct a further game if the game is likely to be affected by the same error or fault.

**(3)** After investigating the incident, the chief executive may, by written notice to the licensed provider—

- (a) direct the licensed provider to—
  - (i) refund the amounts wagered in the game to the players; and
  - (ii) if a player has an accrued credit at the time the game miscarries—pay to the player the monetary value of the credit; or
- (b) give the licensed provider other directions the chief executive considers appropriate in the circumstances.

**(4)** The licensed provider must comply with a direction under subsection (3).

**(5)** If a player entitled to a refund or other payment under this section has a player's account, the amount must be paid into the account.

**Power to withhold prize in certain cases**

**161.(1)** If a licensed provider has reason to believe that the result of an authorised game has been affected by an illegal activity or malfunction of

equipment, the licensed provider may withhold a prize in the game.

(2) If a licensed provider withholds a prize under this section, the licensed provider—

- (a) must immediately inform the chief executive of the circumstances of the incident; and
- (b) must not conduct a further game if a recurrence of the illegality or malfunction is likely.

(3) After investigating the incident, the chief executive may, by written notice to the licensed provider—

- (a) direct the licensed provider to pay the prize; or
- (b) confirm the licensed provider's decision to withhold the prize, but direct the licensed provider to refund amounts wagered in the game.

(4) The licensed provider must comply with a direction under subsection (3).

#### ***Division 14—Approval and use of regulated interactive gambling equipment***

### **Approval of regulated interactive gambling equipment**

**162.(1)** A licensed provider may apply to the chief executive—

- (a) for an approval for regulated interactive gambling equipment proposed to be used in the conduct of authorised games by the licensed provider; or
- (b) for approval to modify regulated interactive gambling equipment used in the conduct of authorised games by the licensed provider.

(2) The chief executive must—

- (a) consider the 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 licensed provider 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 interactive gambling equipment**

**163.(1)** A licensed provider must not use any regulated interactive gambling equipment in conducting an authorised game unless the equipment is approved interactive gambling equipment.

Maximum penalty—40 penalty units.

(2) An agent of a licensed provider must not use any regulated interactive gambling equipment for the conduct of an authorised game by the licensed provider unless the equipment is approved interactive gambling equipment.

Maximum penalty—40 penalty units.

(3) A licensed provider or agent must not modify approved interactive gambling equipment unless the modification is approved by the chief executive in writing.

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

## ***Division 15—Advertising***

### **Advertising interactive gambling**

**164.(1)** A person must not advertise an interactive game in Queensland unless the game is an authorised game.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not advertise an authorised game in Queensland

without approval of the relevant authorised provider.

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

### **Incidental requirements for advertisements**

**165.** A person who advertises an authorised game must take reasonable steps to ensure the advertisement—

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

### **Directions about advertising**

**166.(1)** If the chief executive reasonably believes an advertisement about an authorised game does not comply with section 165, 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 it is a direction to change the advertisement—state how the advertisement is to be changed.

**(3)** A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

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

***Division 16—Complaints*****Inquiries about complaints**

**167.(1)** A licensed provider must inquire into—

- (a) a complaint made to the licensed provider by a person about—
  - (i) the conduct of an authorised game by the licensed provider; or
  - (ii) the conduct of an agent of the licensed provider in operations related to an authorised game; or
- (b) a complaint referred to the licensed provider by the chief executive under subsection (3).

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

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

**(3)** If a complaint is made to the chief executive about the conduct of an authorised game, or the conduct of an agent in operations related to an authorised game, the chief executive must promptly—

- (a) inquire into the complaint; or
- (b) if the chief executive considers it appropriate—
  - (i) refer the complaint to the licensed provider who conducted the game; or
  - (ii) if the authorised game is conducted by an external provider—refer the complaint to the relevant participating regulator.

**(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 licensed provider or a participating regulator.

- (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.

### **Reporting improper behaviour**

**168.(1)** This section applies if an authorised provider becomes aware, or reasonably suspects, that—

- (a) a person, by a dishonest or unlawful act affecting the conduct or playing of an authorised game in Queensland, has obtained a benefit for the person or another person; or
- (b) there has been an unlawful act affecting the conduct or playing of an authorised game in Queensland.

(2) This section also applies if an agent becomes aware, or reasonably suspects, that—

- (a) a person, by a dishonest or unlawful act affecting the conduct or playing of an authorised game in Queensland, has obtained a benefit for the person or another person; or
- (b) there has been an unlawful act affecting the conduct or playing of an authorised game in Queensland.

(3) Within 3 days of becoming aware of, or suspecting, the dishonest or unlawful act, the authorised provider or agent must give the chief executive a written notice advising the chief executive of all facts known to the authorised provider 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 17—Gambling offences*

#### **Cheating**

**169.(1)** A person must not, in relation to an authorised game, dishonestly obtain a benefit by—

- (a) an act, practice or scheme; or
- (b) the use of a thing.

Maximum penalty—200 penalty units or 2 years imprisonment.

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

#### **Forgery and deception**

**170.(1)** A person must not—

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

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

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

(5) A person utters a document if the person—

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

### **Impersonating certain persons**

**171.(1)** A person must not pretend to be a licensed provider, an agent, a key person licensee or a gaming 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**

**172.(1)** A gaming 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 gaming official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

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

- (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.

### **Participation in authorised games by employees of licensed provider**

**173.(1)** An employee (whether a key person licensee or not) of a licensed provider must not take part in an authorised game if directly involved in functions related to the conduct of the game.

Maximum penalty—40 penalty units.

(2) A prize won by a person by participation in an authorised game contrary to this section is forfeited to the State.

**Chief executive's power to restrict participation in authorised games by gaming officials**

**174.(1)** The chief executive may, by written notice given to a gaming official, direct the official—

- (a) not to participate as a player in an authorised game; or
- (b) not to participate as a player in an authorised game except in stated circumstances or for stated purposes.

**(2)** A gaming official must not participate as a player in an authorised game in contravention of a direction under this section.

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

**Power to declare gaming official to be a key official**

**175.(1)** The chief executive may, by written notice given to a gaming official, declare the official to be a key official.

**(2)** A declaration may only be made under this section if the chief executive considers it appropriate to make the declaration in the public interest.

**Relationship of key officials with authorised providers and agents**

**176.(1)** A key official must not, without the chief executive's approval—

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

Maximum penalty—40 penalty units.

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

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

### **Relationship of key officials with prospective licensed providers**

**177.(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 licensed provider; or
- (b) a business or financial interest together with another person who is a prospective licensed provider.

(2) Immediately after the key official becomes aware that the other person is a prospective licensed provider, the official must give written notice of the official's association or interest to the chief executive.

Maximum penalty—40 penalty units.

(3) 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.

(4) However, the chief executive may give the direction only if the chief executive considers it appropriate to take the action in the public interest.

(5) 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.

(6) In this section—

**“prospective licensed provider”** means a person who has applied for an interactive gambling licence but whose application has not yet been decided.

### **Relationship between authorised providers and key officials**

**178.** An authorised provider or an agent must not, without the chief executive’s approval—

- (a) employ a person in any capacity knowing the person to be a key official, or to have been a key official within the preceding period of 1 year; or
- (b) knowingly have, directly or indirectly—
  - (i) a business or financial association with a person knowing the person to be a key official, or to have been a key official within the preceding period of 1 year; or
  - (ii) a business or financial interest together with a person knowing the person to be a key official or to have been a key official within the preceding period of 1 year.

Maximum penalty—40 penalty units.

### **Participation by minors in conduct of approved games prohibited**

**179.(1)** A licensed provider or an agent must not allow a minor to participate in operations related to the conduct of authorised games.

Maximum penalty—200 penalty units.

(2) It is a defence to a charge against subsection (1) to prove that the defendant had no reason to believe, and did not believe, that the person to whom the charge relates was a minor.

(3) A minor must not participate in operations related to the conduct of authorised games.

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

**Participation by minors as players prohibited**

**180.(1)** A person involved in the conduct of an authorised game must not allow a minor to participate as a player in an authorised game.

Maximum penalty—200 penalty units.

**(2)** It is a defence to a charge against subsection (1) to prove that the defendant had no reason to believe, and did not believe, that the person to whom the charge relates was a minor.

**(3)** A minor must not participate as a player in an authorised game.

Maximum penalty—40 penalty units.

**(4)** A prize won by a minor by participation in an authorised game contrary to subsection (3) is forfeited to the State.

**Obscene etc. terms prohibited**

**181.(1)** A person must not participate in an authorised game under a name or designation that is obscene, indecent or offensive.

Maximum penalty—20 penalty units.

**(2)** A licensed provider or an agent may refuse to register a person as a player in an authorised game under a name that is obscene, indecent or offensive.

**Interference with proper conduct of authorised games**

**182.** A person must not, without the chief executive's authorisation, interfere in the proper conduct of an authorised game.

Maximum penalty—200 penalty units.

**Offences by certain persons**

**183.(1)** A person, other than an authorised provider or an agent acting within the scope of the agent's authority, must not—

(a) for the person's gain or reward—

(i) induce anyone else to take part in an authorised game; or

- (ii) offer to anyone else an opportunity to take part in an authorised game; or
  - (iii) distribute or supply forms for registration as a player in an authorised game (a “**player registration form**”), or cause player registration forms to be distributed or supplied to persons other than authorised providers or agents; or
- (b) advertise or publicly promote subscription to, or taking part in, an authorised game.

Maximum penalty—200 penalty units.

(2) A person must not charge an amount for—

- (a) filling in a player registration form; or
- (b) depositing a player registration form, directly or indirectly, with a licensed provider or an agent; or
- (c) submitting, or arranging for the submission of, a player registration form to a licensed provider or an agent; or
- (d) collecting or distributing prizes in an authorised game.

Maximum penalty—200 penalty units.

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

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

### **Licensed provider not to publish identity of player in certain cases**

**184.(1)** A licensed provider or an employee or other person engaged in duties related to the conduct of an authorised game must not, without authorisation under subsection (2)—

- (a) disclose information about the name, or other identifying particulars, of a player; or
- (b) use information about a player for a purpose other than the purpose for which the information was given.

Maximum penalty—200 penalty units.

(2) The disclosure of information, or its use for a purpose other than the purpose for which it was given, is authorised if the disclosure or use is—

- (a) authorised by the player; or
- (b) reasonably necessary for the conduct of authorised games; or
- (c) required for the administration or enforcement of this Act or a corresponding law; or
- (d) otherwise required by law.

## **PART 8—INVESTIGATION AND ENFORCEMENT**

### *Division 1—Inspectors*

#### **Persons who are inspectors**

**185.** The following persons are inspectors for this Act—

- (a) the chief executive;
- (b) a person (an “**appointed inspector**”) holding an appointment as an inspector under this division;
- (c) a person (an “**external inspector**”) who holds an appointment as an inspector under a corresponding law and is authorised in writing by the chief executive to act as an inspector under this Act.

#### **Appointment of inspectors**

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

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

**Qualifications for appointment**

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

- (a) the chief executive considers the person has the necessary expertise or experience to be an inspector or the person has satisfactorily finished training approved by the chief executive; and
- (b) the chief executive considers the person a suitable person to be an inspector.

**(2)** In considering whether a person is a suitable person to be an inspector, the chief executive must have regard to—

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

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

**Audit program**

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

**(2)** The chief executive may investigate an appointed inspector under an approved audit program to help the chief executive decide whether the inspector is a suitable person to be an inspector, having regard to—

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

**(3)** However, an appointed inspector may be investigated under an approved audit program only if there has not been an investigation of the inspector under the program within the preceding 2 years.

**(4)** The chief executive is responsible for ensuring an investigation under an approved audit program is conducted in accordance with the program.

**Criminal history reports for investigation**

**189.(1)** If the chief executive in investigating a person under section 187 or 188 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

**Powers**

**190.(1)** For this Act or a corresponding law, an inspector has the powers given under this Act.

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

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

- (a) under a condition of appointment; or
- (b) by written notice given by the chief executive to the inspector; or
- (c) for an external inspector—in the terms on which the inspector is authorised by the chief executive to act as an inspector under this Act.

**Appointment conditions**

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

(2) An appointed inspector ceases holding office—

- (a) if the appointment provides for a term of appointment—at the end of the term; and
- (b) if the conditions of appointment provide—on ceasing to hold

another office (the “**main office**”) stated in the appointment conditions.

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

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

### **Identity cards**

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

(2) The identity card must—

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

### **Failure to return identity card**

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

Maximum penalty—40 penalty units.

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

**194.(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—General scope of inspectors' powers*

##### **General scope of powers**

**195.** An inspector may exercise powers under this Act in relation to matters relevant either to this Act or a corresponding law.

#### *Subdivision 2—Power to enter places*

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

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

- (a) a public place; or
- (b) a place where an authorised game is being, or is about to be, conducted; or
- (c) a place where an authorised provider or an agent carries on business at any time when the place is open for carrying on business or otherwise open for entry; or
- (d) the land around premises to ask its occupier for consent to enter the premises.

##### **Entry with consent or warrant**

**197.** Unless an inspector is authorised to enter a place under section 196, 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 3—Consents and warrants for entry*****Consent to entry**

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

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

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

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

**(4)** The acknowledgment must state—

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

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

**Evidence of consent**

**199.(1)** Subsection (2) applies if—

- (a) an issue arises in a court proceeding whether the occupier of a place consented to an inspector entering the place under this part; and
- (b) a consent acknowledgment is not produced in evidence for the entry; and
- (c) it is not proved the occupier consented to the entry.

**(2)** The court may presume the occupier did not consent.

### **Application for warrant**

**200.(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**

**201.(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 or a corresponding law; 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**

**202.(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**

**203.(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 4—General powers*****General powers after entering places**

**204.(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 or a corresponding law, the inspector may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
- (d) copy a document at the place; or
- (e) access, electronically or in some other way, a system used at the place for conducting an authorised game or other interactive game or for administrative purposes related to the conduct of an authorised game or other interactive game; or
- (f) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or
- (g) require the occupier of the place, or a person at the place, to give

the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f); or

- (h) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act or a corresponding law 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**

**205.(1)** A person required to give reasonable help under section 204(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 or a corresponding law), 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**

**206.(1)** A person of whom a requirement is made under section 204(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

***Subdivision 5—Power to seize evidence*****Seizing evidence at place that may be entered without consent or warrant**

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

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

**208.(1)** This section applies if—

- (a) the inspector is only authorised to enter the place under this part with the consent of the occupier or a warrant; and
- (b) the inspector enters the place after obtaining the necessary consent or warrant.

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

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

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

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

- (a) the thing is evidence of an offence against this Act or a corresponding law; 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 is being, has been, or is about to be, used in committing an offence against this Act or a corresponding law.

### **Securing things after seizure**

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

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

*Examples of restricting access to a thing—*

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

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

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

Maximum penalty—40 penalty units.

### **Powers to support seizure**

**211.(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.

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

**212.(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**

**213.(1)** A thing that has been seized under this part is forfeited to the State 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 or a corresponding law.

(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 the Queensland Gaming Commission within 28 days; and
- (c) how the appeal may be made; and
- (d) that the owner may apply for a stay of the decision if the owner appeals against the decision.

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

- (a) in deciding—
  - (i) whether it is reasonable to make inquiries or efforts; and
  - (ii) if making inquiries or efforts—what inquiries or efforts are reasonable; or
- (b) in deciding whether it would be unreasonable to give notice about a thing.

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

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

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

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

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

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

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

### *Subdivision 6—Power to give directions to stop using things*

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

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

- (a) a thing used in the conduct of an authorised game 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 authorised 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 authorised games.

#### **Requirements about stop directions**

**217.(1)** A direction given to a person under section 216 (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 provider, an agent or other person involved in Queensland in the conduct of an authorised 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**

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

Maximum penalty—40 penalty units.

### ***Subdivision 7—Power to obtain information***

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

**219.(1)** This section applies if—

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

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

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

(4) The inspector may require the person to give evidence of the

correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address to be false.

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

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

**220.(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 or a corresponding law; and
- (b) the person is not proved to have committed the offence.

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

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

- (a) a document issued to the person under this Act or a corresponding law; or
- (b) a document required to be kept by the person under this Act or a corresponding law; or
- (c) if the person is an authorised provider—a document kept by the authorised provider about the conduct of authorised games by the authorised provider; or
- (d) if the person is an agent—a document kept by the agent about the conduct of authorised games by the authorised provider by whom the agent is appointed.

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

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

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

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

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

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

### **Failure to produce document**

**222.(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**

**223.** 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**

**224.(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 an authorised provider—

- (a) the authorised provider or, if the authorised provider is a corporation, an executive officer of the authorised provider;
- (b) an employee of the authorised provider;
- (c) an agent for the authorised provider or, if the agent is a corporation, an executive officer of the corporation;
- (d) an employee of an agent mentioned in paragraph (c);
- (e) another person associated with the operations or management of—
  - (i) the authorised provider; or
  - (ii) an 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 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 authorised provider that is the agent's principal or, if the principal is a corporation, an executive officer of the corporation;
- (d) another person associated with the operations or management of—
  - (i) the agent; or
  - (ii) the authorised provider that is the agent's principal.

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

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

**(5)** When making the requirement, the inspector must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

**Failure to comply with requirement about attendance**

**225.(1)** A person of whom a requirement is made under section 224 must not, unless the person has a reasonable excuse—

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

Maximum penalty—40 penalty units.

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

**Power to require financial records**

**226.(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) an authorised provider keeps an account in relation to the authorised provider's operations; or
- (b) an 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**

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

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

**Failure to comply with financial records requirement**

**228.** 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 practice**

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

- (a) the management, supervision or control of a part of the operations of a licensed provider, or an agent for a licensed provider, (the “**management practice**”) is unsatisfactory; and
- (b) the management practice may—
  - (i) compromise proper standards of integrity in the conduct of authorised games; or
  - (ii) adversely affect the public interest in some other way.

**(2)** The Minister may direct the licensed provider or the agent to stop, or change, the management practice.

**(3)** The direction must—

- (a) be in writing; and

- (b) state the grounds on which the Minister believes the management practice is unsatisfactory; and
- (c) if the person is required to change the management practice—clearly describe how the practice is to be changed; and
- (d) state when the person is required to comply with the direction.

(4) A person to whom a direction is given must comply with the direction unless the person has a reasonable excuse.

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

#### ***Division 4—General enforcement matters***

##### **Forfeiture on conviction**

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

- (a) anything used to commit the offence; or
- (b) anything else the subject of the offence.

(2) The court may make the order—

- (a) whether or not the thing has been seized; and
- (b) if the thing has been seized—whether or not the thing has been returned to its owner.

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

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

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

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

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

**Notice of damage**

**232.(1)** This section applies if—

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

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

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

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

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

**(6)** In this section—

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

**Compensation**

**233.(1)** A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 2<sup>3</sup>—

- subdivision 2 (Power to enter places)
- subdivision 4 (General powers)
- subdivision 5 (Power to seize evidence)
- subdivision 7 (Power to obtain information).

**(2)** However, if an external inspector exercised or purported to exercise

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<sup>3</sup> Division 2 (Powers of inspectors)

the relevant power, a claim under this section is to be made against—

- (a) the inspector; or
- (b) a person designated under the intergovernmental agreement as a person against whom claims may be made under this section for acts of the inspector.

(3) 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.

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

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

(5) 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.

(6) 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**

**234.(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 (other than an external inspector or a person acting under the direction of an external inspector), the liability attaches instead to the State.

(4) If subsection (2) prevents a civil liability attaching to an external

inspector or a person acting under the direction of an external inspector), the liability attaches instead to—

- (a) a person designated under the intergovernmental agreement as the person to whom liability attaches under this section for acts of the inspector; or
- (b) if no person is so designated—the State.

### *Division 5—General enforcement offences*

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

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

Maximum penalty—40 penalty units.

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

#### **False, misleading or incomplete documents**

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

Maximum penalty—40 penalty units.

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

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

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

Maximum penalty—40 penalty units.

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

### **Obstructing inspectors**

**237.(1)** A person must not obstruct an inspector in the exercise of a power (or someone helping 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 (or someone helping 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 cause an obstruction, unless the person has a reasonable excuse; and
- (b) the inspector considers the person's conduct an obstruction.

## **PART 9—LEGAL PROCEEDINGS**

### *Division 1—Evidence*

#### **Application of division**

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

#### **Appointments and authority**

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

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

## Signatures

**240.** 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

**241.(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 or a corresponding law—
  - (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 or a corresponding law;
- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
- (d) on a stated day, or during a stated period, a stated person was or was not the holder of a licence;
- (e) on a stated day, or during a stated period, a licence—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated condition;
- (f) on a stated day—
  - (i) a licence was suspended for a stated period, surrendered or cancelled; or
  - (ii) an agency agreement was cancelled;
- (g) on a stated day, or during a stated period, a stated appointment (including a person's appointment as an inspector) or a stated approval was, or was not, in force for a stated person or thing;

- (h) on a stated day, a stated person was given a stated notice or direction under this Act;
- (i) on a stated day, a stated requirement was made of a stated person;
- (j) a stated amount is payable under this Act by a stated person and has not been paid;
- (k) anything else prescribed under a regulation.

(2) In this section—

“**licence**” means an interactive gambling licence or a key person licence.

### *Division 2—Proceedings*

#### **Indictable and summary offences**

**242.(1)** An offence against section 169, 170, or 172<sup>4</sup> is an indictable offence.

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

#### **Proceedings for indictable offences**

**243.(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

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<sup>4</sup> Section 169 (Cheating), 170 (Forgery and deception) or 172 (Bribery)

witnesses for an indictable offence; and

- (b) a plea of the person charged at the start of the proceedings must be disregarded; and
- (c) evidence brought in the proceedings before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).<sup>5</sup>

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

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

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

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

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

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

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

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<sup>5</sup> Section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

**Responsibility for acts or omissions of representatives**

**246.(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**

**247.(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 same as for the offence committed by the corporation.

(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**

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

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

(3) The Criminal Code, section 4<sup>6</sup> applies to subsection (1).

## **PART 10—APPEALS**

### **Appeals by licensed providers**

**249.** A licensed provider may appeal to the Queensland Gaming Commission against a decision of the chief executive mentioned in schedule 2, part 1.

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

**250.** An applicant for a key person licence may appeal to the Queensland

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<sup>6</sup> Section 4 (Attempts to commit offences)

Gaming Commission against a decision of the chief executive under section 66<sup>7</sup> to refuse to grant the application.

### **Appeals by key person licensees**

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

### **Appeals by agents**

**252.** An agent may appeal to the Queensland Gaming Commission against a decision of the chief executive mentioned in schedule 2, part 3.

### **Appeals by other persons**

**253.(1)** A decision by the chief executive under section 137 is subject to appeal to the Queensland Gaming Commission as follows—

- (a) an applicant for an order may appeal against a decision by the chief executive not to make the order sought in the application;
- (b) a person affected by the order may, if the person is not the applicant, appeal against the chief executive's decision to make the order.

**(2)** The owner of a thing seized by an inspector may appeal to the Queensland Gaming Commission against a decision of an inspector under section 213<sup>8</sup> to forfeit the thing.

### **Starting appeal**

**254.(1)** An appeal is started by—

- (a) filing a written notice of appeal with the registrar of the Queensland Gaming Commission; and

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<sup>7</sup> Section 66 (Consideration of application)

<sup>8</sup> Section 213 (Forfeiture)

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

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

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

**255.(1)** The Queensland Gaming Commission may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

(a) may be given on conditions the Queensland Gaming Commission considers appropriate; and

(b) operates for the period fixed by the commission; and

(c) may be revoked or amended by the commission.

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

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

### **Hearing procedures**

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

(a) has the same powers as the decision maker; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice; and

(d) may hear the appeal in public or in private.

(2) An appeal is by way of rehearing.

**Power to gather evidence**

**257.(1)** The Queensland Gaming Commission may, by written notice signed by the registrar, require a person—

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

**(2)** The answers to questions given in response to a notice under subsection (1)(a) must, if the notice so requires, be verified by statutory declaration.

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

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

Maximum penalty—40 penalty units.

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

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

### **Powers of Queensland Gaming Commission**

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

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

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

**(3)** The Queensland Gaming Commission must promptly give the parties to an appeal written notice of its decision on the appeal and the reasons for its decision.

### **Appeals to District Court**

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

## **PART 11—MISCELLANEOUS**

### **Confidentiality of information**

**260.(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, a gaming Act or a corresponding law; 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 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**

**261.(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 to an appropriately qualified inspector (other than an external inspector) or an appropriately qualified officer of the department—

- (a) powers of the chief executive under this Act; or
- (b) powers delegated to the chief executive by the Minister under this section.

(3) The chief executive must notify licensed providers of the current delegations in force under this section from time to time.

(4) In this section—

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

*Example of ‘standing’*

A person’s classification level in the public service.

### **Approval of forms**

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

### **Regulation-making power**

**263.** The Governor in Council may make regulations under this Act.

## **PART 12—CONSEQUENTIAL AMENDMENTS**

### **Amendment of Art Unions Act 1992**

**264.(1)** The *Art Unions Act 1992* is amended as set out in this section.

(2) Section 5(3)—

*omit, insert—*

‘(3) However, the following are not art unions—

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

### **Amendment of Casino Control Act 1982**

**265.(1)** The *Casino Control Act 1982* is amended as set out in this section.

(2) Section 4(1), definition “**Gaming Act**”—

*omit, insert—*

‘**“Gaming Act”** means any of the following Acts—

- *Art Unions Act 1992*
- *Gaming Machine Act 1991*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Lotteries Act 1997*
- *Wagering Act 1998.*’.

(3) Section 4(1), definition “**casino gross revenue**”, ‘conduct of gaming and agency related keno games’, second mention—

*omit, insert—*

‘conduct of gaming’.

### **Amendment of Gaming Machine Act 1991**

**266.(1)** The *Gaming Machine Act 1991* is amended as set out in this section.

(2) Section 3, definition “**commission**”—

*omit, insert—*

‘**“commission”** means the Queensland Gaming Commission continued in existence under section 10.’.

(3) Section 3, definition “**Gaming Act**”—

*omit, insert—*

‘**“Gaming Act”** means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*

- *Lotteries Act 1997*
- *Wagering Act 1998.*'.

**(4)** Section 10(1)—

*omit, insert—*

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

**(5)** Section 11(a)—

*omit, insert—*

- '(a) as are conferred upon the commission under this and other Acts; and'

**(6)** Section 12(1)—

*omit, insert—*

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

**(7)** Section 13(3)—

*omit, insert—*

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

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

**'(3A)** At least 1 member of the commission must be a legal practitioner practising law in Queensland.'

**(8)** Section 17(1)(f)—

*omit, insert—*

- '(f) is convicted of an offence against this Act or another Act that confers powers on the commission; or'

**(9)** Section 22(1)—

*omit, insert—*

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

**(10)** Section 35(1)—

*omit, insert—*

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

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

**(11)** Section 35(2)—

*omit, insert—*

**‘(2)** A person at all times after appointment, or being made available, as an officer of the division—

- (a) must preserve and assist in preserving secrecy with regard to all information that comes to the persons knowledge in the exercise of functions under this or another Act; and
- (b) must not communicate or reveal the information except—
  - (i) in the exercise of powers or the performance of functions under this or another Act; or
  - (ii) with any other lawful excuse (proof of which is upon the person); or
  - (iii) if authorised or approved under this section or another Act.

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

### **Amendment of Keno Act 1996**

**267.(1)** The *Keno Act 1996* is amended as set out in this section.

(2) Schedule 4, definition “**Gaming Act**”—

*omit, insert—*

‘**“Gaming Act”** means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Gaming Machine Act 1991*
- *Interactive Gambling (Player Protection) Act 1998*
- *Lotteries Act 1997*
- *Wagering Act 1998.*’.

#### **Amendment of Lotteries Act 1997**

**268.(1)** The *Lotteries Act 1997* is amended as set out in this section.

(2) Section 7(1), after ‘an approved arrangement’—

*insert—*

‘or under a Gaming Act’.

(3) Section 7(2), after ‘an approved arrangement’—

*insert—*

‘or under a Gaming Act’.

(4) Schedule 3, definition “**Gaming Act**”—

*omit, insert—*

‘**“Gaming Act”** means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Gaming Machine Act 1991*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Wagering Act 1998.*’.

**SCHEDULE 1****DECISIONS NOT SUBJECT TO APPEAL**

section 59

**PART 1—DECISIONS OF GOVERNOR IN COUNCIL**

Section	Description of decision
52	Suspending an interactive gambling licence
52	Cancelling an interactive gambling licence
52	Appointing an administrator to conduct the operations of a licensed provider
54	For an interactive gambling licence that is suspended—cancelling or reducing any remaining period of suspension

**PART 2—DECISIONS OF MINISTER**

Section	Description of decision
13	Granting or refusing to grant authorisation for conduct of a particular interactive game or imposing condition on such an authorisation
14	Changing conditions on which a particular interactive game is

## SCHEDULE 1 (continued)

	authorised
15	Revoking authorisation to conduct a particular interactive game
25	Approval of exemption scheme
26	Cancellation of the approval of an exemption scheme
31	Granting or refusing to grant an application for an interactive gambling licence
37	Imposing a condition on an interactive gambling licence
39	Changing conditions of an interactive gambling licence
48	Suspending an interactive gambling licence
49	Censuring a licensed provider
50	Directing a licensed provider to rectify a matter
150	Giving, or refusing to give, an approval for an ancillary gambling agreement
153	Directing the termination of a related agreement
229	Directing a licensed provider or an agent to stop or change a management practice

**SCHEDULE 2****DECISIONS OF CHIEF EXECUTIVE SUBJECT TO  
APPEAL**

sections 249, 251 and 252

**PART 1—DECISIONS AFFECTING LICENSED  
PROVIDERS**

Section	Description of decision
82	Suspending or cancelling a key person licence
105	Directing licensed provider to terminate an agency agreement

**PART 2—DECISIONS AFFECTING KEY PERSON  
LICENSEES**

Section	Description of decision
73	Imposing condition on key person licence
74	Changing a condition of a key person licence
75	Refusing to grant an application to replace a key person licence
82	Suspending or cancelling a key person licence

## SCHEDULE 2 (continued)

**PART 3—DECISIONS AFFECTING AGENTS**

Section	Description of decision
105	Directing a licensed provider to terminate an agency agreement

## SCHEDULE 3

### DICTIONARY

section 7

“**accepted representations**” for part 3, division 3, see section 47.

“**accepted representations**” for part 4, division 3, see section 78.

“**accepted representations**” for part 5, division 2, see section 101.

“**accepted representations**” for part 7, division 10, see section 152.

“**agency agreement**” see section 95.

“**agent**” see section 94.

“**ancillary gambling agreement**” see section 149.

“**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 262.

“**approved interactive gambling equipment**” means regulated interactive gambling equipment approved under section 162.

“**approved place**” see section 138.

“**authorised game**” see section 12.

“**authorised provider**” see section 11.

“**beneficiary**” of a trust includes, in the case of a discretionary trust, an object of the trust.

“**business associate**”, of an agent, means a person whom the chief executive reasonably believes to be associated with the agent’s operations.

“**business associate**”, of a licensed provider, means a person whom the chief executive reasonably believes to be associated with the licensed provider’s operations.

## SCHEDULE 3 (continued)

**“business associate”**, of an applicant for an interactive gambling licence, means a person who the Minister reasonably believes—

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if an interactive gambling licence is issued to the applicant, be associated with the ownership or management of the licensed provider’s operations.

**“condition notice”** see section 39.

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

**“control system”** means a system of internal controls and administrative and accounting procedures for the conduct of interactive games by a licensed provider.

**“control system (change) submission”** see section 129.

**“control system submission”** see section 128.

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

**“corresponding law”**, of a participating jurisdiction, means a law of a participating jurisdiction declared to be a corresponding law under section 10.

**“credit”** includes any form of financial accommodation.

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

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

**“document certification requirement”** see section 221.

**“document production requirement”** see section 221.

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

## SCHEDULE 3 (continued)

**“employee”**, of a licensed provider or an agent, means a person employed by the licensed provider or agent in functions related to the conduct of authorised games.

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

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

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

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if an interactive gambling licence is issued to the applicant, be associated with the ownership or management of the licensed provider’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 gambling record”** see section 138(2).

**“exemption scheme”** see section 24.

**“external licence”** means the licence of an external provider under a corresponding law.

**“externally authorised game”** see section 12(2).

**“external provider”** see section 11(2).

## SCHEDULE 3 (continued)

**“financial institution”** means—

- (a) a bank; or
- (b) a building society; or
- (c) a credit union; or
- (d) a friendly society; or
- (e) another entity prescribed under a regulation.

**“financial records requirement”** see section 226.

**“gambling record”**, of a licensed provider, means a record (including a document) about the operations conducted by the licensed provider under the interactive gambling licence.

**“gambling turnover”** for an authorised game means the gross amount wagered by the players.

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

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Gaming Machine Act 1991*
- *Keno Act 1996*
- *Lotteries Act 1997*
- *Wagering Act 1998*.

**“gaming official”** means—

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

**“identity card”**, for an inspector, see section 192.

**“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

## SCHEDULE 3 (continued)

- (c) that the person to whom the notice is given may appeal against the decision to the Queensland Gaming Commission within 28 days.

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

**“interactive gambling equipment”** means a machine or other device (whether electronic, electrical or mechanical), computer software, or another thing, used, or suitable for use, in the conduct of an authorised game.

**“interactive gambling licence”** means a licence under part 3 (Interactive Gambling Licences).

**“interactive gambling tax revenue”** see section 115(1).

**“interactive game”** see section 6.

**“interested person”**, for section 46.

**“intergovernmental agreement”** means an agreement under section 10(2).

**“key official”** means a gaming official declared under section 175 to be a key official.

**“key person”** see section 60.

**“key person licence”** means a licence issued under section 69.

**“key person licensee”** means a person licensed under a key person licence.

**“key relationship”** see section 60.

**“licence fees”** see section 112.

**“licensed provider”** see section 11(1).

**“official gambling document”** means—

- (a) an interactive gambling licence; or
- (b) a key person licence; or
- (c) an inspector’s identity card.

**“participating jurisdiction”** means a jurisdiction that is, under the terms of a declaration made under section 10, to be regarded as a participating jurisdiction.

## SCHEDULE 3 (continued)

**“participating regulator”** means the person responsible for the administration of the corresponding law of a participating jurisdiction.

**“personal details requirement”** see section 219.

**“player”** see section 5.

**“player’s account”** see section 20.

**“public office”**, for a licensed provider, means the licensed provider’s principal place of business in the State or, if the licensed provider is a corporation and has its registered office in the State, the registered office.

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

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

**“registrar”**, of the Queensland Gaming Commission, means an officer or person designated under a regulation as the registrar of the commission.

**“regulated interactive gambling equipment”** means gambling equipment declared under a regulation to be regulated interactive gambling equipment.

**“related agreement”** means—

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

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

## SCHEDULE 3 (continued)

**“rules”** see section 120.

**“show cause notice”** for part 3, division 3, see section 45.

**“show cause notice”** for part 4, division 3, see section 78.

**“show cause notice”** for part 5, division 2, see section 101.

**“show cause notice”** for part 7, division 10, see section 152.

**“show cause period”** for part 3, division 3, see section 45.

**“show cause period”** for part 4, division 3, see section 78.

**“show cause period”** for part 5, division 2, see section 101.

**“show cause period”** for part 7, division 10, see section 152.

**“special warrant”** see section 202.

**“stop direction”** see section 217.

**“telecommunication device”** means—

- (a) a computer adapted for communicating by way of the internet or another communications network; or
- (b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or another communications network; or
- (c) a telephone; or
- (d) any other electronic device or thing for communicating at a distance.

**“wager”** means an amount a player pays to participate in an interactive game or puts at risk in playing an interactive game.

**“written notice”** includes a notice given in the form of electronic data from which a written document can be produced or reproduced.