

Queensland



# **GAMING MACHINE ACT 1991**

**Reprinted as in force on 5 December 1997  
(includes amendments up to Act No. 81 of 1997)**

**Reprint No. 4**

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

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

**Also see endnotes for information about—**

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

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# GAMING MACHINE ACT 1991

[as amended by all amendments that commenced on or before 5 December 1997]

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

### PART 1—PRELIMINARY

#### Short title

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

#### Definitions

3. In this Act—

“**accepted representations**” see section 72ZJ.<sup>1</sup>

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

- (a) a financial institution under the *Acts Interpretation Act 1954*, section 36;<sup>2</sup>
- (b) a registered corporation under the *Financial Corporations Act 1974* (Cwlth);
- (c) another entity prescribed under a regulation.

“**approved form**” see section 213A.<sup>3</sup>

“**arrangement**” includes scheme, understanding, promise or undertaking,

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<sup>1</sup> Section 72ZJ (Consideration of representations)

<sup>2</sup> Under the *Acts Interpretation Act 1954*, section 36, a “financial institution” means a bank, building society or credit union.

<sup>3</sup> Section 213A (Approval of forms)

whether express or implied.

**“assessment period”**, for licensed premises, means the period for which an assessment is required to be made under section 163(1)<sup>4</sup> for the premises.

**“associate”**, of a person, has the meaning given by section 6.

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

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

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

**“body corporate”** means—

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

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

**“chairperson”** means a commissioner—

- (a) appointed under section 13(2) and holding office; or
- (b) appointed under section 19(1) and at that time acting; as the chairperson of the commission.

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

**“club liquor licence”** means—

- (a) a licence mentioned in the *Liquor Act 1992*, section 58(1)(e); or

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<sup>4</sup> Section 163 (Monthly taxable metered win)

- (b) an authority held by a non-proprietary club to sell liquor under a Commonwealth Act.

**“commission”** means the Queensland Machine Gaming Commission established under section 10.

**“commissioner”** means a person—

- (a) appointed under section 13(1) or 14(2) and holding office; or  
(b) appointed under section 19(2) and at that time acting;  
as a commissioner of the commission.

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

**“conduct of gaming”** has the meaning given by section 4.

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

**“disclosed associate”** means a person stated in a disclosure affidavit as being a person who satisfies a description mentioned in section 72ZZ(4)(a) or (b).<sup>5</sup>

**“disclosure affidavit”** see section 72ZZ.<sup>6</sup>

**“division”** means the Machine Gaming Division of the department.

**“electronic monitoring system”** means any electronic or computer system or device that is so designed that it may be used, or adapted, to receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment.

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

**“executive officer”**, in relation to a body corporate, means each of the chairperson, managing director or other principal executive officer of the body corporate and every member of any executive, governing or

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<sup>5</sup> Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits)

<sup>6</sup> Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits)

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management body of the body corporate (by whatever name called).

**“financial institution”** means—

- (a) the Reserve Bank of Australia; or
- (b) a bank within the meaning of the *Banking Act 1959* (Cwlth); or
- (c) a building society within the meaning of the Financial Institutions Code; or
- (d) a credit union within the meaning of the Financial Institutions Code; or
- (e) a person who carries on State banking within the meaning of the Commonwealth Constitution, section 51(xiii); or
- (f) a body corporate that is, or that, if it had been incorporated in Australia, would be, a financial corporation within the meaning of the Commonwealth Constitution, section 51(xx); or
- (g) any other person or body that permits persons to deposit amounts of money with that other person or body for use by, or at the direction of, those persons for gaming or betting.

**“financial year”** means the period of 1 year ending on 30 June in any year or, if the chief executive, under section 5, approves some other date as the terminating date of a financial year in a particular case, the period so approved.

**“game”** means a game designed to be played on a gaming machine and identifiable from all other games by differences in rules or programming.

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

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

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Keno Act 1996*
- *Lotteries Act 1997*.

**“gaming equipment”** means—

- (a) any gaming machine; or

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

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

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

but does not include any device declared under section 190 not to be a gaming machine.

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

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

**“gaming machine licence”** means a gaming machine licence issued under section 43 that is in force.

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

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

**“gaming trainer”** means a person (other than a listed person) who

conducts a genuine training course relating to the conduct of gaming.

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

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

**“information notice”**, for a decision of the commission means a written notice stating—

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

**“inspector”** means—

- (a) an inspector (whether by use of that term or by use of another name containing that term) appointed under section 26; or
- (b) an officer who is appointed to be an inspector under section 26; or
- (c) a person who is appointed as an inspector (whether by use of that term or by use of another name containing that term) under section 27; or
- (d) a person who is, because of office, an inspector under this Act.

**“interested person”** see section 72ZI.<sup>7</sup>

**“jackpot”** means the combination of letters, numbers, symbols or representations required to be displayed on the reels or video screen of a gaming machine so that the maximum winnings in accordance with the prize payout scale displayed on the machine are payable.

**“key monitoring employee”** means an individual employed by, or working for, a licensed operator who—

- (a) occupies a managerial position or carries out functions in a managerial capacity; or
- (b) may make decisions, involving the exercise of the person’s

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<sup>7</sup> Section 72ZI (Involvement of interested persons in show cause process)

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discretion, that regulate the operator's operations.

**“key officer”**, for a licensed operator, means a person associated with, or employed by, the operator who—

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

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

**“licensed machine manager”** means the holder of a machine manager's licence, that is in force, issued under section 81.

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

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

**“licensed repairer”** means the holder of a repairer's licence, that is in force, issued under section 81.

**“licensed service contractor”** means the holder of a service contractor's licence, that is in force, issued under section 81.

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

**“linked jackpot arrangement”** means an arrangement under which 2 or more gaming machines are linked to a device, being a device—

- (a) that records, an amount which, in the event of a jackpot or other result being obtained on 1 of those machines, may be, or part of the amount may be, payable as winnings; and
- (b) that, for the purpose of recording the amount referred to in paragraph (a), receives data from each gaming machine to which the device is linked; and
- (c) that is not capable of affecting the outcome of a game on a gaming machine to which the device is linked.

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

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

**“liquor licence”** means—

- (a) a licence mentioned in the *Liquor Act 1992*, section 58(1); or
- (b) an authority to sell liquor under an Act, or a Commonwealth Act.

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

**“listed person”** means a person for the time being listed on—

- (a) the roll of recognised manufacturers and suppliers of gaming machines maintained under section 130; or
- (b) the roll of recognised suppliers of restricted components maintained under section 131.

**“machine manager”** means—

- (a) a licensed machine manager employed under section 75(3); or
- (b) an applicant for a machine manager’s licence employed under section 75(4); or
- (c) a person employed under section 75(6).

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

**“metered payouts”**, for licensed premises for an assessment period, means the metered amount won by players for winning results on gaming machines on the premises in the assessment period.

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

**“money clearance”** means the removal of gaming tokens from the drop box of a gaming machine.

**“monthly taxable metered win”**, for licensed premises for an assessment

period, means the metered win for the premises for the period, less the amounts for the period—

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

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

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

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

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

**“officer of the division”** means an appointee under section 26 or 27 and a person made available under section 28 (during the time that person renders assistance under section 28).

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

**“play a gaming machine”** has the meaning given by section 7.

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

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

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

**“public interest”** means public interest having regard to the creation and maintenance of public confidence and trust in the credibility or integrity

of—

- (a) gaming; or
- (b) the conduct of gaming; or
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

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

**“recognised manufacturer or supplier of gaming machines”** means a person for the time being listed on the roll of recognised manufacturers and suppliers of gaming machines.

**“recognised supplier of restricted components”** means a person for the time being listed on the roll of recognised suppliers of restricted components.

**“registered company auditor”** means a person registered as an auditor, or taken to be registered as an auditor, under the Corporations Law, chapter 9, part 9.2.<sup>8</sup>

**“restricted component”** means any component that is prescribed as a restricted component when it does not form part of any gaming machine, linked jackpot equipment, electronic monitoring system or centralised credit system but does not include anything declared under section 190 not to be a restricted component.

**“schedule of gaming machines”** means the schedule of gaming machines issued under section 44 that, for the time being, is in existence in respect of the licensed premises specified in the schedule.

**“service contract”** means any agreement to install, alter, adjust, maintain or repair gaming equipment provided to a licensee or that is on licensed premises but does not include an agreement to carry out any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 73(3).

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<sup>8</sup> Chapter 9 (Miscellaneous), part 9.2 (Registration of auditors and liquidators)

“**show cause notice**” see section 72ZH.<sup>9</sup>

“**show cause period**” see section 72ZH.

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

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

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

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

**4.** A reference in this Act to “**conduct of gaming**” is a reference to—

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

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

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

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<sup>9</sup> Section 72ZH (Show cause notice)

**Meaning of “associate”****6.** For the purposes of this Act—

- (a) the following persons are associates of a person—
  - (i) the person’s spouse;
  - (ii) a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
  - (iii) any partner of the person;
  - (iv) any body corporate of which the person is an executive officer;
  - (v) where the person is a body corporate—an executive officer of the body corporate;
  - (vi) a person who, in the previous year, has provided to the first person advice for fee or reward in relation to—
    - (A) gaming; or
    - (B) the conduct of gaming; or
    - (C) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
  - (vii) any employee or employer of the person;
  - (viii) any officer or employee of any body corporate of which the person is an officer or employee;
  - (ix) any employee of a natural person of whom the person is an employee;
  - (x) any body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a body corporate, of the executive officers of that body corporate;
  - (xi) any body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers of which, the person is accustomed or under an obligation,

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- whether formal or informal, to act;
- (xii) any body corporate in which the person holds a controlling interest;
  - (xiii) where the person is a body corporate—a person who holds a controlling interest in the body corporate;
  - (xiv) any person who is named in an affidavit forwarded or lodged by the person under section 59, 72H, 72K, 72W, 72ZU or 89;
  - (xv) any person who is because of paragraph (a), an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of paragraph (a)); and
- (b) a person is taken to hold a controlling interest in a body corporate if the person, alone or together with any associate or associates of the person, is in a position to control not less than 15% of the voting power in the body corporate or holds interests in not less than 15% of the issued shares in the body corporate.

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

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

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

the gaming machine.

**Act binds the Crown**

8. This Act binds the Crown.

**Acceptable evidence of age**

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

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

10.(1) There is established for the purposes of this Act a commission by the name of Queensland Machine Gaming Commission.

(2) The commission—

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

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

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

**Functions of commission**

11. The functions of the commission are such—

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

**Powers of commission**

**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 Act.

**(2)** Each commissioner is, because of office, an inspector for the purposes of this Act.

**Commissioners**

**13.(1)** The commission is to consist of 5 commissioners who are to be appointed by the Governor in Council on the recommendation of the Minister.

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

**(3)** In relation to the commissioners appointed under subsection (1)—

- (a)** 1 commissioner is to have extensive experience or knowledge of the gaming industry; and
- (b)** 1 commissioner is to be a person who has an educational qualification relating to accountancy or extensive experience in accountancy; and
- (c)** 1 commissioner is to be a person who has extensive experience or knowledge of public administration or of law enforcement; and
- (d)** 1 commissioner is to be a minister of religion or a person with experience in the provision of social welfare to the community.

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

**(5)** commissioners are to be of good repute, having regard to character, honesty and integrity.

**(6)** The Minister is to cause due inquiry to be made before a person is appointed under this section to be, or appointed under section 19 to act as, a commissioner in order to be satisfied that the person is of good repute.

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

- (a)** there was a defect or irregularity in connection with the person's

- appointment as a commissioner; or
- (b) the appointment had ceased to have effect.

### **Tenure of office**

**14.(1)** A commissioner—

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

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

### **Leave of absence**

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

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

### **Register and disclosure of interests**

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

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

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

- (a) a summary in writing of pecuniary interests had by the commissioner at the time of appointment as a commissioner; and

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

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

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

(5) A disclosure under subsection (4) is to be recorded in the minutes of the commission and, unless the Minister or the commission otherwise determines, the commissioner must not—

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

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

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

### **Termination of appointment of commissioners**

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

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- (a) dies; or
- (b) resigns the commissioner's office by instrument in writing signed by the commissioner and given to the Minister; or
- (c) becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (d) being the chairperson—is absent, except with the leave of the Minister, from 3 consecutive meetings of the commission; or
- (e) being a commissioner other than the chairperson, is absent, except with the leave of the chairperson, from 3 consecutive meetings of the commission; or
- (f) is convicted of an offence against this Act; or
- (g) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
- (h) is removed from office by the Governor in Council under subsection (2).

**(2) The Governor in Council—**

- (a) may remove a commissioner from office if the commissioner—
  - (i) without reasonable excuse contravenes section 16; or
  - (ii) fails to discharge the commissioner's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; and
- (b) must remove a commissioner from office if the Governor in Council determines the commissioner is not a fit and proper person to be a commissioner.

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

**Terms and conditions of appointment of commissioners**

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

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

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

**(3)** A commissioner holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

**Acting appointments**

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

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

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

- (a) during a vacancy in the office of such a commissioner; or
- (b) during any period, or during all periods, when such a commissioner—

- (i) is acting as the chairperson; or
- (ii) has been granted leave of absence by the chairperson; or
- (iii) is, for any reason, unable to attend meetings of the commission, or otherwise perform the functions under this Act of the office.

## **Meetings**

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

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

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

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

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

**(5)** At a meeting of the commission—

- (a) the chairperson and 2 other commissioners constitute a quorum; and
- (b) a question is to be decided by a majority of the votes of the commissioners present and voting; and
- (c) the chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

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

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

## **Resources**

**21.(1)** The chief executive must—

- (a) remunerate each commissioner as provided in section 18; and

(b) make available to the commission (to the satisfaction of the Minister) sufficient—

- (i) administrative services; and
- (ii) funds for expenses incurred in the normal conduct of meetings of the commission;

as are necessary for the commission to perform its functions under section 11 and exercise its powers under section 12.

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

### **Annual report**

**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 under this Act during the year ended on that day.

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

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

**23.(1)** Subject to subsections (2) to (4) and sections 24 and 25, any decision or determination of the commission is final.

(2) A regulation may—

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

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

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

(5) Subject to section 24(5), a decision or determination of the commission has effect from the making of the decision or determination or from such other time as is specified by the commission for the purpose.

**Appeals to Minister**

**24.(1)** A person who—

- (a) may be adversely affected by a decision under section 35(5); or
- (b) is or was an applicant for or a holder of a licence under this Act or a listed person and is aggrieved by a decision or determination referred to in subsection (8) or (9);

may appeal against the decision or determination to the Minister.

**(2)** The appeal must—

- (a) be made in the approved form; and
- (b) state the nature and grounds of the appeal; and
- (c) be accompanied by the fee prescribed; and
- (d) be lodged with the chief executive within 14 days of the date when the appellant was given written advice of the decision or determination in respect of which the appeal is made.

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

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

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

**(5)** The Minister may direct that the operation of a decision or determination appealed against be stayed until the appeal is determined under section 25 if the Minister is satisfied that the integrity of gaming and the conduct of gaming will not be jeopardised and that the public interest will not be adversely affected.

**(6)** An appellant may, by written notice lodged with the chief executive, withdraw an appeal before it is determined under section 25.

**(7)** One-half of the fee lodged under section 24(2) is to be returned to the

appellant upon the withdrawal of the appeal.

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

- (a) under section 38, refusing to grant a gaming machine licence; or
- (b) under section 40(12); or
- (c) under section 48(1)(b); or
- (d) under section 49(1); or
- (e) under section 56(5), refusing an application to increase the number of gaming machines provided to a licensee; or
- (f) under section 56(5), in respect of the increased number of gaming machines to be provided to a licensee; or
- (g) under section 57(1); or
- (h) under section 64(12)(d); or
- (i) under section 65(1); or
- (j) under section 80(1), refusing to grant a licence under part 4; or
- (k) under section 84; or
- (l) under section 85(1); or
- (m) under section 94(12)(d); or
- (n) under section 95(1); or
- (o) under section 134(1); or
- (p) under section 134(3), refusing to approve that a person again be listed on the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components.

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

- (a) a decision of the chief executive under section 72X<sup>10</sup> refusing to renew an operator's licence; or

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<sup>10</sup> Section 72X (Renewal of licence—decision)

- (b) a decision of the chief executive under section 72Y<sup>11</sup> refusing to replace an operator's licence.

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

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

- (a) the contents of the appeal under section 24 and information or material lodged with the appeal; and
- (b) information or material that is—
  - (i) given to the Minister by the appellant; and
  - (ii) given to the Minister by any person referred to in section 24(4)(d); and
  - (iii) given to the Minister by the commission in respect of the appeal; and
  - (iv) given to the Minister by the chief executive in respect of the appeal;within 14 days of the lodging of the appeal; and
- (c) such other information or material as the Minister considers relevant;

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

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

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

**(3)** The determination of the Minister upon an appeal instituted under section 24 is final.

**(4)** A direction by the Minister to set aside or vary the decision or

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<sup>11</sup> Section 72Y (Replacement of licence)

determination appealed against has effect from the giving of the direction or from such other time as is specified for the purpose in the direction.

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

### **Appeals to Magistrates Court**

**25A.(1)** An applicant for an operator's licence may appeal against the commission's decision under section 72P<sup>12</sup> to refuse to grant the application for the licence.

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

- (a) a decision under section 72Q<sup>13</sup> to impose a condition on the licence;
- (b) a decision under section 72T<sup>14</sup> to change a condition of the licence;
- (c) a decision under section 72ZO or 72ZQ<sup>15</sup> to suspend the licence;
- (d) a decision under section 72ZO to cancel the licence.

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

(4) Sections 25B to 25F apply only to an appeal under this section.

### **Starting appeal**

**25B.(1)** An appeal is started by—

- (a) filing a written notice of appeal with the clerk of the Magistrates Court; and

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<sup>12</sup> Section 72P (Decision about application)

<sup>13</sup> Section 72Q (Conditions of licences)

<sup>14</sup> Section 72T (Changing conditions of licence)

<sup>15</sup> Section 72ZO (Decision of commission) or 72ZQ (Immediate suspension)

(b) serving a copy of the notice on the commission.

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

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

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

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

**25C.(1)** The Magistrates Court may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

(a) may be given on conditions the court considers appropriate; and

(b) operates for the period fixed by the court; and

(c) may be revoked or amended by the court.

(3) The stay must not extend past the time when the court decides the appeal.

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

### **Hearing procedures**

**25D.(1)** In deciding an appeal, the Magistrates Court—

(a) has the same powers as the commission; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice; and

(d) may hear the appeal in court or chambers.

(2) An appeal is by way of rehearing.

**Powers of court on appeal**

**25E.(1)** In deciding an appeal, the Magistrates Court may—

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

**(2)** If the court substitutes another decision, the substituted decision is, for this Act (other than section 25A), taken to be the commission's decision.

**Appeal to District Court**

**25F.** An appeal to a District Court from a decision of a Magistrates Court may be made only on a question of law.

**Inspectors**

**26.(1)** The chief executive may appoint public service officers as inspectors for the purposes of this Act.

**(2)** The chief executive is an inspector for the purposes of this Act.

**Appointment of other persons**

**27.(1)** In addition to appointments under section 26, the Governor in Council may appoint such other persons as are necessary for the effectual administration of this Act.

**(2)** The persons are to be employed under this Act, and not under the *Public Service Act 1996*.

**(3)** Subject to this Act, appointments referred to in subsection (1) may be to such position and to perform such functions as the Governor in Council from time to time determines.

**(4)** Subject to subsections (5) and (6) and to any applicable industrial award or industrial agreement, appointments referred to in subsection (1) are to be for such periods and subject to such conditions as to remuneration and otherwise as the Governor in Council thinks fit.

(5) An appointment referred to in subsection (1) is not to exceed 5 years.

(6) Appointments may be renewed for a second or subsequent period not longer than 5 years in any case.

### **Assistance within department**

**28.** In addition to appointments under sections 26 and 27, the chief executive is to make available such clerical and other staff assistance that may be necessary for the effectual administration of this Act.

### **Officers of division to be of good repute**

**29.(1)** Officers of the division are to be of good repute, having regard to character, honesty and integrity.

(2) The Governor in Council is to cause due inquiry to be made before a person is appointed to be an officer of the division in order to be satisfied that the person is of good repute.

(3) The chief executive is to cause due inquiry to be made before a person is made available under section 28 in order to be satisfied that the person is of good repute.

(4) At any time the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to be satisfied that an officer of the division, having regard to the matters specified in subsection (1), is suitable to be an officer of the division.

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

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

Maximum penalty for subsection (6)—200 penalty units or 1 year's imprisonment.

### **Machine Gaming Division**

**30.** Officers of the division are responsible for performing all functions that are necessary in connection with the administration of this Act.

**Delegation by chief executive**

**31.** Before making a delegation under this Act to a person who is not an officer of the division, the chief executive must make the necessary inquiries to ensure the person is of good repute.

**Police assistance**

**34.(1)** A regulation may approve arrangements for—

- (a) the rendering of assistance by police officers; and
- (b) the supplying of information contained in the records of the Queensland Police Service; and
- (c) the taking of fingerprints and palm prints of applicants for licences under part 4; and
- (d) the making available of other resources and facilities of the Queensland Police Service;

to officers of the division for the purposes of the effectual administration of this Act.

**(2)** The commissioner of the police service must ensure that effect is given to arrangements approved under subsection (1).

**Secrecy**

**35.(1)** A commissioner who wilfully discloses, except for the purposes of the commission, or of this Act or a Gaming 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 Act, or for the purposes of this Act, commits an offence against this Act.

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

**(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 person's knowledge in the exercise of functions under this Act; and
- (b) must not communicate or reveal the information.

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

**(2A)** A person who is or was a licensed operator must not communicate or reveal information about a licensee's operations that the person obtained in the course of the person's operations as a licensed operator.

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

**(2B)** A person who is or was employed by a licensed operator or who works or worked for a licensed operator (whether in the capacity of a licensed key monitoring employee or another capacity), must not communicate or reveal information obtained by the person in carrying out the person's functions in that capacity.

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

**(2C)** Subsections (2), (2A) and (2B) do not apply to the communication or revealing of information by a person—

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

**(3)** A person referred to in subsection (2), (2A) or (2B), if the chief executive so approves, may communicate or reveal any information referred to in the subsection to such body or authority as is prescribed, or to an officer of the body or authority.

**(4)** Any body, authority or officer to whom any information is communicated or revealed under subsection (3), and a person or employee under the control of that body, authority or officer, is, in respect of that information, subject to the same rights, privileges and liabilities under this section as if that body, authority, officer, person or employee were a person referred to in subsection (2).

**(5)** A person referred to in subsection (2), (2A) or (2B), if the commission so approves, may communicate or reveal any information referred to in the subsection to any department of government of the State, body, holder of an office or person as the commission specifies in the approval.

**(6)** Before granting an approval under subsection (5) the commission must—

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

### **Identification cards**

**36.(1)** Every inspector is to be furnished with an identification card, signed by the chief executive, that identifies the inspector as an inspector.

**(2)** The chief executive may furnish any other officer of the division with an identification card, signed by the chief executive, that identifies the officer as an officer of the division.

**(3)** An identification card must—

- (a) be in the approved form; and
- (b) contain a photograph and signature of the inspector or other officer, and anything else the approved form requires.

**(4)** A person to whom a card is furnished under this section—

- (a) must produce the card, when so requested, to the person who is the subject of or affected by the exercise of the person's powers or the performance of the person's functions under this Act; and
- (b) must return the card to the chief executive upon ceasing to be an inspector or other officer of the division.

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

## **PART 3—GAMING MACHINE LICENCES**

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

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

- (a) the commission may, having regard to the recommendation of

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the chief executive and to such other information or material as the commission considers is relevant, grant or refuse to grant gaming machine licences; and

- (b) gaming and the conduct of gaming on licensed premises under this Act is lawful.

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

**Application for gaming machine licences**

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

- (a) a body corporate that holds a club liquor licence; or
- (b) the holder of a general liquor licence; or
- (c) the holder of a prescribed liquor licence; or
- (d) a body corporate that has applied to become the holder of—
  - (i) a general liquor licence; or
  - (ii) a club liquor licence; or
  - (iii) a prescribed liquor licence; or
- (e) an individual who has applied to become the holder of—
  - (i) a general liquor licence; or
  - (ii) a prescribed liquor licence.

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

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

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

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- (a) is to be made in the approved form; and
- (b) in the case of an application by a natural person—is to be signed by the applicant; and
- (c) in the case of an application by a body corporate—is to be—
  - (i) executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorised in that behalf by the body corporate; or
  - (ii) if the chief executive considers that subparagraph (i) cannot reasonably be complied with—executed or signed in such other way as the chief executive allows; and
- (d) is to state the full name, address and date of birth—
  - (i) in the case of an application by a natural person—of the applicant; or
  - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application by a body corporate—is to be accompanied by—
  - (i) a copy of the certificate of incorporation of the body corporate; and
  - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the body corporate in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate; and
  - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
  - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and

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

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- proposed liquor licence mentioned in subsection (1)(d) or (e) relates; and
- (ii) gaming machines installed in the locations will allow—
    - (A) proper cleaning and maintenance of the gaming machines; and
    - (B) unrestricted access to fire exits in a way that complies with the *Fire Service Act 1990*, the *Building Act 1975* and the Building Code of Australia; and
    - (C) the proper use of things provided on the premises for safety and security; and
  - (j) is to specify full particulars of the ownership and any intended ownership of the premises; and
  - (k) is to specify the number of gaming machines in respect of which the licence is sought; and
  - (l) is to be accompanied by an affidavit under section 59; and
  - (m) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
  - (n) is to be forwarded to or lodged with the chief executive; and
  - (o) is to be accompanied by the fee prescribed.

**Consideration of applications**

**40.(1)** Upon receipt of an application for a gaming machine licence, and compliance by the applicant with this part, the chief executive must—

- (a) initiate and have followed through such investigations as the chief executive considers are necessary in relation to the application; and
- (b) consider the application and anything accompanying it together with the results of investigations made under paragraph (a) and make an assessment of—
  - (i) the suitability of the premises to which the application relates

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having regard to the size, layout and facilities of the premises; and

- (ii) if the applicant is a natural person—the financial stability, general reputation and character of the applicant; and
- (iii) if the applicant is a body corporate—the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate; and
- (iv) if any person is mentioned in an affidavit under section 59—the suitability of that person to be an associate of the applicant; and
- (v) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant; and
- (vi) the suitability of the applicant to be a licensee.

(2) The chief executive must make a recommendation to the commission that a gaming machine licence be granted or refused.

(3) The chief executive is not to recommend that a gaming machine licence be granted if—

- (a) in the case of an application by a natural person—the applicant has not attained the age of 18 years; or
- (b) in the case of an application by a body corporate—the secretary or any executive officer of the body corporate has not attained the age of 18 years; or
- (c) the chief executive considers that the installation and use of gaming machines on the premises to which the application relates is likely to affect adversely—
  - (i) the nature or character of the premises; or
  - (ii) the general use of the premises or the enjoyment of persons using the premises.

(4) If the chief executive considers that any proposed location indicated in the plan referred to in section 39(3)(h) is unsuitable for the installation of gaming machines, the chief executive is to—

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- (a) advise the applicant, in writing, accordingly; and
- (b) return the plan of the premises to the applicant; and
- (c) request the applicant to amend and resubmit the plan;

as often as is necessary to satisfy the chief executive's requirements.

**(5)** If an applicant, within the time specified in the last request made under subsection (4), fails to amend and resubmit the plan the chief executive is not required to take any further action in respect to the application.

**(6)** If the chief executive recommends the grant of a gaming machine licence, the chief executive must advise the commission of the number of gaming machines considered appropriate for the premises the subject of the application.

**(7)** The chief executive is to have regard to—

- (a) the number of gaming machines requested in the application made under section 39; and
- (b) the liquor consumption on the premises; and
- (c) the hours and days when the premises are open for the sale of liquor; and
- (d) in the case of a club—the number of members of the club; and
- (e) the size, layout and facilities of the premises to which the application relates; and
- (f) the size and layout of the proposed gaming machine areas; and
- (g) the anticipated level of gaming on the premises; and
- (h) such other matters as the chief executive considers are relevant.

**(8)** The chief executive or commission may require the applicant, or any associate of the applicant, to submit such additional information or material as the chief executive or the commission considers is necessary in order to make a recommendation, decision or determination.

**(9)** Any such additional information or material is to be considered in making the recommendation, decision or determination.

**(10)** The commission must not grant an application for a gaming machine licence made by a club if the commission considers—

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- (a) that the club, including a voluntary association of persons from which it was formed—
  - (i) has not been operating for at least 2 years before the application was made; or
  - (ii) has not, during the whole of the period, been pursuing its objects or purposes in good faith; or
- (b) that payments for the rental or lease of the club's licensed premises are unreasonable; or
- (c) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement—that the provision is unreasonable; or
- (d) if members of the executive, governing or management body (however described) of the club are required to be nominated, or may be nominated, by a person who is not a member of the club, or by a voluntary association of persons—that this is not in the best interests of the club's members; or
- (e) if the club does not own the club's licensed premises and an executive officer or employee of the club is also the lessor, or an associate of the lessor, of the club—that this is not in the best interests of the club's members; or
- (f) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club—that this is not in the best interests of the club's members.

**(11)** Subsection (10)(a) does not apply if the commission considers that granting the application is—

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

**(12)** The commission is to determine the number of gaming machines to be provided by the chief executive to the applicant.

(13) That number is to be not greater than the number applied for or the maximum number prescribed for the category of licensed premises to which the licensed premises the subject of the application belongs.

(14) The chief executive must immediately give the applicant written notice of—

- (a) the commission's decision; and
- (b) if the application is refused—the reasons for the refusal.

(15) Upon the grant of a gaming machine licence, the gaming machine areas are those locations on licensed premises indicated in the plan referred to in section 39(3)(h) or that plan as last amended and resubmitted under subsection (4).

### **Clubs may be restricted to only 1 gaming machine licence**

41. If a club is a licensee, the commission may grant an application by the club for another gaming machine licence (the “**new licence**”) only if—

- (a) the commission considers that the benefits to be offered to members of the club at the premises for which the new licence is sought (the “**new premises**”) are distinct in nature to the benefits offered to the members at the existing licensed premises of the club (the “**existing premises**”); and
- (b) the new premises are located in close proximity to the existing premises; and
- (c) the commission is satisfied that—
  - (i) it is in the best interests of the club's members that the new licence be granted; and
  - (ii) the granting of the new licence is not contrary to the public interest.

### **Changes in circumstances of applicants for and holders of licences**

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

chief executive written notice of the change.

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

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

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

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

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

### **Issue of gaming machine licences**

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

(2) The gaming machine licence is to be in the approved form and is to specify—

- (a) the name of the licensee; and

- (b) the expiry date of the licence; and
- (c) any conditions imposed under section 48(1)(b).

### **Schedule of gaming machines**

**44.(1)** The chief executive must issue to a licensee in respect of each of the licensee's licensed premises a schedule of gaming machines.

**(2)** A schedule of gaming machines is to—

- (a) identify the gaming machine licence and licensed premises to which it applies; and
- (b) specify the number of gaming machines provided to the licensee in respect of the licensed premises; and
- (c) specify the date from which the schedule is to apply.

**(3)** Where—

- (a) the accuracy of the schedule of gaming machines is affected by anything done by the chief executive under section 55; or
- (b) the chief executive is satisfied that a schedule of gaming machines has been damaged, lost or destroyed;

the chief executive is to issue a fresh schedule of gaming machines to the licensee.

**(4)** The issue of a fresh schedule of gaming machines under subsection (4) cancels any previous schedule of gaming machines on and from the date specified for the purpose in the fresh schedule and is taken for all purposes to be the schedule of gaming machines for the licensed premises specified in the fresh schedule.

**(5)** Upon receipt of a fresh schedule of gaming machines the licensee must cause any cancelled schedule of gaming machines in the possession of the licensee to be delivered to the chief executive within 14 days of that receipt.

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

**Gaming machine licences and schedules to be displayed**

**45.** A licensee is to display the licensee's gaming machine licence and the schedule of gaming machines in a conspicuous position on the licensed premises in question unless the licence at any material time is in the possession of the chief executive.

Maximum penalty—40 penalty units.

**Issue of copy gaming machine licences**

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

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

**Term of gaming machine licences**

**47.(1)** Subject to this Act, a gaming machine licence remains in force for 2 years from the date of issue of the licence.

**(2)** A gaming machine licence may be renewed.

**Conditions of gaming machine licences**

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

- (a) such conditions as are prescribed; and
- (b) such other conditions (including any variation of the conditions made under section 49) as the commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 49.

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

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

**Imposition or variation of conditions**

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

- (a) the imposition of conditions or further conditions on the licence; or
- (b) a variation to the conditions imposed on the licence under section 48(1)(b) or paragraph (a) of this subsection;

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

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

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

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

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

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

**Payment and recovery of amounts**

**50.(1)** All amounts received by the chief executive under conditions referred to in section 48 must be paid into the consolidated fund.

**(2)** The chief executive, for any reason that the chief executive considers is sufficient, may forgive or refund any penalty payable under conditions referred to in section 48.

**(3)** All amounts payable by a licensee under conditions referred to in section 48 that remain unpaid may be recovered as a debt payable by the licensee to the Crown.

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

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

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

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

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

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

- (a) is to be in the approved form; and
- (b) is to be accompanied by the fee prescribed; and
- (c) is to be made, unless the chief executive otherwise allows, at least 1 month before the expiration of the licence; and
- (d) in the case of an application by a body corporate—is to be accompanied by a list of the names, addresses and dates of birth of—
  - (i) the secretary of the body corporate; and
  - (ii) the executive officers of the body corporate; and
  - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
- (e) is to be accompanied by an affidavit under section 59.

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

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

**(5)** If an application under subsection (1) is refused, the chief executive

must immediately give the applicant written notice of, and the reasons for, the decision.

(6) If a licensee complies with this section, the chief executive must renew the licence for 2 years starting on—

- (a) the day after its last expiry; or
- (b) the day it would have last expired apart from its extension under subsection (3).

### **Gaming machine licences cannot be transferred**

52. A gaming machine licence cannot be transferred to another person or to other premises.

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

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

(2) The chief executive may issue the certificate only if—

- (a) the premises for which the application under the *Liquor Act 1992* was made are not licensed premises under this Act; or
- (b) if the premises for which the application was made are licensed premises under this Act—
  - (i) the commission is prepared to grant a gaming machine licence to the applicant; and
  - (ii) satisfactory arrangements have been made for payment of any amounts payable by the current licensee under conditions mentioned in section 48 or under part 8.

(3) If a person—

- (a) applies under the *Liquor Act 1992* for the transfer of a club liquor licence, general liquor licence or prescribed liquor licence; and
- (b) applies at the same time for a gaming machine licence for the

premises to which the application mentioned in paragraph (a) relates; and

(c) the liquor licensing authority is prepared to transfer the liquor licence; and

(d) the commission is prepared to grant the gaming machine licence;

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

### **Chief executive may alter or remove gaming machines etc.**

**55.(1)** The chief executive may at any time remove from licensed premises any or all of the gaming machines provided to a licensee and provide the licensee with another gaming machine or other gaming machines.

**(2)** The chief executive—

(a) on application made by a licensee in the approved form and on payment of the fee prescribed may approve that a gaming machine; or

(b) if the chief executive thinks fit to do so, may cause a gaming machine to;

be altered to effect a change in the game, gaming token denomination or betting unit of the gaming machine.

**(3)** Where—

(a) the commission determines under section 57(1) that the number of gaming machines provided to a licensee be decreased; or

(b) a gaming machine licence is cancelled;

the chief executive must remove from the premises in question the number of gaming machines so determined or, as the case may be, all gaming machines on the premises.

**(4)** Gaming machines removed under subsection (1) or (3) and gaming machines provided under subsection (1) are to be in accordance with such gaming machine type, game, gaming token denomination and betting unit as the chief executive determines.

**Increase in gaming machines**

**56.(1)** A licensee may make application to the chief executive that the number of gaming machines provided to the licensee be increased.

**(2)** An application under subsection (1)—

- (a) is to be made in the approved form and signed or executed in the same way as is specified in section 39(3)(b) or (c); and
- (b) is to specify the increased number of gaming machines sought and the total number of gaming machines that would then be on the licensee's licensed premises in question should the application be granted; and
- (c) where appropriate, is to be accompanied by an application under section 58; and
- (d) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application or the licensee as are determined by the chief executive; and
- (e) is to be accompanied by the fee prescribed.

**(3)** The chief executive, in considering an application under subsection (1), is to have regard to—

- (a) the increased number of gaming machines applied for in the application; and
- (b) the liquor consumption on the premises; and
- (c) the monthly taxable metered win of existing gaming machines operated on the premises; and
- (d) the hours and days when the premises are open for the sale of liquor; and
- (e) the size, layout and facilities of the premises together with any proposed modification or relocation of the gaming machine areas of the premises; and
- (f) such other matters as the chief executive considers are relevant.

**(4)** The chief executive must make a recommendation to the commission that the application—

- (a) be granted or refused; or
- (b) be granted in respect of a less number of gaming machines than the number sought.

(5) The commission is to determine whether to grant or refuse to grant the application and, if granted, the increased number of gaming machines that may be provided to the licensee.

(6) That increased number is to be not greater than the number applied for and the total number of gaming machines that would then be on the licensed premises is to be not greater than the maximum number prescribed for the category of licensed premises to which the licensed premises the subject of the application belongs.

(7) The chief executive or commission may require the licensee to submit such additional information or material as the chief executive or, as the case may be, the commission considers is necessary in order to make a recommendation or decision.

(8) Any such additional information or material is to be considered in making the recommendation or decision.

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

### **Decrease in gaming machines**

**57.(1)** The commission, having regard to the chief executive's recommendation under subsection (3), may determine that the number of gaming machines provided to a licensee be decreased by such number as the commission thinks fit.

(2) If the commission makes a determination under subsection (1), the chief executive must immediately give the licensee written notice of, and the reasons for, the determination.

(3) The chief executive must make a recommendation to the commission as soon as practicable after receipt of—

- (a) an application made to the chief executive by a licensee that the number of gaming machines provided to the licensee be decreased, accompanied, where appropriate by an application

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under section 58; or

- (b) a written request from the liquor licensing authority, the commissioner of fire service or the relevant local authority that the number of gaming machines provided to the licensee be decreased; or
- (c) the written report of an inspector with respect to—
  - (i) any general change in conditions that have happened in the neighbourhood in which the licensee's licensed premises are located; or
  - (ii) any change in the licensee's circumstances; or
  - (iii) any change in any of the matters referred to in section 40(7);

since the licensee was granted a gaming machine licence and recommending that the number of gaming machines provided to the licensee be decreased.

(4) Except where a licensee makes an application under subsection (3), the chief executive, before making a recommendation under that subsection, must—

- (a) advise the licensee by written notice of the relevant details of any request or report made under subsection (3); and
- (b) give the licensee the opportunity of making a written submission with respect to the request or report within such time as is specified in the notice.

(5) The licensee must surrender to the chief executive or to a person authorised in that behalf by the chief executive the number of gaming machines specified in a determination made under subsection (1).

Maximum penalty for subsection (5)—1 000 penalty units or 5 years imprisonment.

**Modification or relocation of gaming machine areas**

**58.(1)** A licensee must not modify or relocate the gaming machine areas of the licensee's licensed premises without the approval of the chief executive.

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

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(2) An application for an approval under subsection (1) is to be accompanied by—

- (a) a plan of the premises indicating the proposed locations on the premises where it is intended to install gaming machines; and
- (b) a statutory declaration declaring the matters mentioned in subsection (3).

(3) The statutory declaration mentioned in subsection (2)(b) must declare that—

- (a) the proposed locations mentioned in subsection (2)(a) are within the premises to which the licensee's liquor licence relates; and
- (b) gaming machines installed in the locations will allow—
  - (i) proper cleaning and maintenance of the gaming machines; and
  - (ii) unrestricted access to fire exits in a way that complies with the *Fire Service Act 1990*, the *Building Act 1975* and the Building Code of Australia; and
  - (iii) the proper use of things provided on the premises for safety and security.

(4) Where—

- (a) the commission determines that the number of gaming machines provided to a licensee be decreased; or
- (b) the chief executive considers that it is necessary for the proper conduct of gaming that the gaming machine areas of licensed premises be modified or relocated;

the chief executive may, by written notice, direct the licensee to modify or relocate the gaming machine areas of the licensee's licensed premises in accordance with the direction.

(5) The licensee must comply with the chief executive's direction.

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

(6) The chief executive may before—

- (a) granting an approval under subsection (1); or
- (b) giving a direction under subsection (4);

require the licensee to furnish such information as the chief executive considers appropriate, and the licensee must comply with the requirement.

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

(7) The chief executive, having regard to—

- (a) the size, layout and facilities of the licensee's licensed premises; and
- (b) such other matters as the chief executive considers are relevant;

may grant or refuse to grant an application under subsection (1).

(8) On and from the date of completion of any modification or relocation approved or directed under this section, the gaming machine areas of a licensed premises for all purposes are as so modified or relocated.

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

### **Disclosure of influential or benefiting parties**

**59.(1)** At the time of making an application for—

- (a) a gaming machine licence—the applicant; or
- (b) a renewal of a gaming machine licence—the licensee;

must forward to or lodge with the chief executive an affidavit made under this section.

(2) An applicant or licensee who undergoes any change in circumstances in relation to information contained in the last affidavit forwarded or lodged under this section by the applicant or licensee must, within 7 days of the change, forward to or lodge with the chief executive a fresh affidavit made under this section.

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

(3) An affidavit under this section is to be made by—

- (a) in the case of the applicant or licensee being a natural person—that person; or
- (b) in the case of the applicant or licensee being a body corporate—

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- (i) the principal executive officer of the body corporate; or
- (ii) if that officer does not have knowledge of the facts—some other person who has knowledge of the facts and who is authorised by the body corporate to make the affidavit.

(4) An affidavit under this section is to be in the approved form and must disclose—

- (a) whether or not there is any person (other than, where the applicant or licensee is a body corporate, the secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—

- (i) in the case of the applicant or licensee being a natural person—by that person; or
- (ii) in the case of the applicant or licensee being a body corporate—by the body corporate or the secretary or an executive officer of the body corporate;

in relation to the conduct of gaming by the applicant or licensee; and

- (b) whether or not there is any person other than the applicant or licensee who by any lease, agreement or arrangement may expect any benefit from the applicant or licensee in relation to the conduct of gaming by the applicant or licensee; and
- (c) if there are any persons able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—
  - (i) where any such person is a natural person—the person's full name, address and date of birth; and
  - (ii) where any such person is a body corporate other than a club—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and
  - (iii) where any such person is a club or other voluntary association of persons—

- (A) the name of the club or voluntary association of persons; and
  - (B) the full name, address and date of birth of the secretary and each executive officer of the club or voluntary association of persons; and
  - (C) particulars of any liquor licence held by the club or voluntary association of persons; and
  - (D) details of the objectives (if any) of the club or voluntary association of persons and whether or not the club is a non-proprietary club or the voluntary association of persons conducts its business in the same way as a non-proprietary club; and
- (iv) full and correct particulars of the lease, agreement or arrangement; and
- (d) in the case of the applicant or licensee being a body corporate other than a club—the names of all persons who are substantial shareholders of the body corporate under of the Corporations Law, section 708.

(5) Despite subsection (4), an affidavit under this section need not disclose anything that is prescribed for the purposes of this subsection.

### **Investigation of licensees and associates**

**60.(1)** At any time while a gaming machine licence is in force the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to be satisfied that the licensee or any associate of the licensee is a suitable person to be a licensee or an associate of the licensee.

(2) The chief executive may, either verbally or by written notice, require any person, to whom investigations under subsection (1) relate, to submit such information or material as the chief executive considers is necessary.

(3) The person must comply with the chief executive's requirement under subsection (2).

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

**Cessation or commencement of executive officer or secretary**

**61.** If an applicant under section 39 or a licensee is a body corporate, the body corporate must notify the chief executive in the form determined by the chief executive—

- (a) that a person has ceased to be the secretary or an executive officer of the body corporate; and
- (b) that a person has commenced as the secretary or an executive officer of the body corporate; and
- (c) the full name, address and date of birth of any person referred to in paragraph (b);

within 7 days of such cessation or commencement.

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

**Surrender of gaming machine licences**

**62.(1)** A licensee, at any time, by forwarding to or lodging with the chief executive notification in the approved form, and the licensee's gaming machine licence, may surrender the licence.

**(2)** The notification is to be signed or executed in the same way as that specified for an application made under section 39(3)(b) or (c).

**(3)** The chief executive may require the licensee to submit such information or material as the chief executive thinks fit.

**(4)** The licensee must comply with the chief executive's requirement under subsection (3).

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

**(5)** The chief executive as soon as possible after receipt of documents referred to in subsection (1) must remove all gaming machines from the licensee's licensed premises.

**(6)** A surrender of a gaming machine licence takes effect from the time all gaming machines are removed from the licensee's licensed premises or another time decided by the chief executive.

**Cancellation or suspension of gaming machine licences in certain circumstances**

**63.** If the liquor licence for premises licensed under this Act is—

- (a) cancelled, transferred or surrendered—the gaming machine licence for the premises is cancelled; or
- (b) suspended—the gaming machine licence for the premises is suspended for the same period as the liquor licence is suspended.

**Cancellation or suspension of gaming machine licences and letters of censure**

**64.(1)** A ground for cancellation or suspension of a gaming machine licence arises if—

- (a) the licensee—
  - (i) ceases to use the licensed premises for the conduct of gaming; or
  - (ii) obtained the licence on false, erroneous or misleading information; or
  - (iii) acquires, installs or uses any gaming machine on the licensed premises contrary to this Act; or
  - (iv) fails to comply with any provision of part 8; or
  - (v) fails to comply with any condition to which the licence is subject under section 48; or
  - (vi) fails to forward or lodge an affidavit in accordance with section 59(2); or
- (b) the licensee or an associate of the licensee—
  - (i) is convicted of an offence against this Act; or
  - (ii) fails to discharge the licensee's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
  - (iii) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a

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receiver or receiver and manager or is placed under official management and an official manager appointed under the Corporations Law; or

- (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
  - (v) is required to comply with any written direction given to the licensee or associate by the commission or chief executive, and fails to comply with the direction; or
  - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the licensee or associate is false, erroneous or misleading in a material particular; or
- (c) the chief executive—
- (i) considers that the licensee has not made all reasonable efforts to comply with section 126; or
  - (ii) considers that the licensee has not made all reasonable efforts to enforce rules required to be enforced under section 105; or
  - (iii) considers that the licensee or an associate of the licensee is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a licensee or to be an associate of the licensee; or
  - (iv) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the chief executive is of the opinion that the recommendation under section 40(2) would have been that the licence be refused; or
  - (v) if the licensee is a club—considers—
    - (A) that the club has ceased to be a non-proprietary club; or

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- (B) that the proceeds from the conduct of gaming are being applied in a way that does not promote the objectives of the club; or
- (C) that payments for the rental or lease of the club's licensed premises are unreasonable; or
- (D) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement—that the provision is unreasonable; or
- (E) if members of the executive, governing or management body (however described) of the club are required to be nominated, or may be nominated, by a person who is not a member of the club or by a voluntary association of persons—that this is not in the best interests of the club's members; or
- (F) if the club does not own the club's licensed premises and an executive officer or employee of the club is also the lessor, or an associate of the lessor, of the club—that this is not in the best interests of the club's members; or
- (G) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club—that this is not in the best interests of the club's members; or
- (H) that payments made under the club's objects are not in the best interests of the club's members; or
- (I) that payments made for things purchased by the club are unreasonable; or
- (J) that salaries, wages, allowances or benefits paid or payable by the club to the club's executive officers or employees are unreasonable; or
- (K) that payments for services provided to the club are unreasonable or are on the basis of a percentage of the

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club's income, profits or earnings from the conduct of gaming or spending related to the conduct of gaming.

(2) If the chief executive is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the chief executive must issue to the licensee a written notice to show cause why action should not be taken with respect to the gaming machine licence under this section.

(3) The chief executive must issue a copy of the notice to any other person whom the chief executive considers has an interest in the gaming machine licence.

(4) The notice is to set out the grounds giving rise to its issue and is to specify a date, being not earlier than 21 days after such issue, on or before which cause is required to be shown.

(5) The notice is to be in such form and contain such matters as the chief executive thinks fit, subject to this section.

(6) Each person to whom the notice is issued may give a written answer to the chief executive at any time not later than the date specified in the notice in that respect.

(7) Any person to whom a copy notice is issued under subsection (3) may make such written submissions to the chief executive as the person thinks fit at any time not later than the date specified under subsection (4).

(8) The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (7) and, if the chief executive considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the chief executive is not to take any action or any further action in relation to the notice; or
- (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory but action to cancel or suspend the gaming machine licence is not warranted, the chief executive may issue a letter of censure to the licensee, censuring the licensee in respect of any matter connected with or giving rise to the notice to show cause; or

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- (c) answers given or submissions made in reply to or in respect of the notice are not satisfactory and further action is warranted or if no answers are given and no submissions are made, the chief executive may—
- (i) by written notice give such directions to the licensee as the chief executive considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice; or
  - (ii) recommend to the commission that the gaming machine licence be cancelled or suspended.

**(9)** If a direction given by the chief executive under subsection (8)(c)(i) is not complied with within the time specified in the notice, the chief executive may recommend to the commission that the gaming machine licence be cancelled or suspended.

**(10)** If the chief executive is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is not of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the chief executive may by letter censure the licensee in respect of any matter connected with or giving rise to the ground.

**(11)** If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

**(12)** The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (11) and to such other information or material as the commission considers is relevant, may—

- (a) take no action with respect to the gaming machine licence if the commission considers action is not warranted; or
- (b) cause a letter of censure to be issued to the licensee in respect to any matter that the commission considers it proper to do so; or
- (c) by written notice give to the licensee any direction that the commission considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified

within the time specified in the notice; or

- (d) cancel the gaming machine licence or suspend the gaming machine licence for such period as the commission thinks fit.

**(13)** If the commission cancels or suspends a licence, the chief executive must immediately give the licensee written notice of, and the reasons for, the cancellation or suspension.

**(14)** The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (13) or from another date specified in the notice.

**(15)** Upon receipt of a notice of cancellation under subsection (13), the person to whom the notice is addressed must cause the licence to be delivered to the chief executive within 14 days.

Maximum penalty—40 penalty units.

**(16)** The commission, having regard to any recommendation of the chief executive in that regard, may—

- (a) cancel the suspension in respect of the unexpired period of suspension; or
- (b) reduce the period of suspension;

imposed under subsection (12)(d).

### **Suspension of gaming machine licence pending decision under s 64**

**65.(1)** Where the commission, having regard to the advice of the chief executive, is of the opinion that any act, omission or other thing that constitutes a ground under section 64(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the commission may suspend the gaming machine licence until any action taken, or to be taken, under section 64 is finally determined.

**(2)** Where the commission suspends a gaming machine licence under subsection (1), the chief executive—

- (a) must immediately give the licensee written notice of, and the reasons for, the suspension; and
- (b) is not to take any action under section 64(8)(a), (b), (c)(i) or (10),

in respect of the licence without the approval of the commission.

(3) The suspension of a gaming machine licence under this section takes effect from when the notice referred to in subsection (2) is given to the licensee or the suspension of the licence is made known to the licensee (whichever is the first to happen).

(4) Without prejudice to a suspension under subsection (1), where the commission suspends a gaming machine licence under that subsection the chief executive is to take action under section 64 as if the chief executive had formed the opinion referred to in section 64(2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

### **Effect of suspension of licence**

66. The suspension of a gaming machine licence under section 63, 64(12) or 65(1) has the same effect as the cancellation of the licence but without prejudice to—

- (a) any penalty or other liability incurred by the licensee; or
- (b) the exercise of the powers of the commission or the powers or authorities of the chief executive or an inspector.

### **Gaming machines not to be played**

67. Where a gaming machine licence is issued to a person and the licence is not in force, that person must not play, or knowingly permit any other person to play, gaming machines provided to that person.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

### **Recovery of gaming machines etc.**

68.(1) The cancellation, surrender or non-renewal of a gaming machine licence does not affect—

- (a) the force or effect of the conditions of licence in respect of any amounts that are payable at the time of cancellation, surrender or non-renewal or which become payable; or

(b) the recovery of debts due under this Act to the Crown.

(2) A person who held a gaming machine licence that is cancelled or not renewed must provide all reasonable assistance to the chief executive, or any person acting on behalf of the chief executive, to enable the removal of any gaming equipment or ancillary or related property of the Crown from the premises to which the licence related.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

### **Appointment of administrator instead of suspension**

**69.(1)** Without derogating from section 64 or 65, the commission may, in respect of a club, instead of suspending a gaming machine licence under section 64(12) or 65(1), appoint a person to administer the affairs of the club.

(2) A person appointed under subsection (1) has, to the exclusion of any other person or body of persons, the powers of the secretary and executive officers of the club until the commission orders otherwise.

### **Expenses of administration**

**70.(1)** The expenses of and incidental to the administration of the affairs of a club by a person appointed under section 69 are payable by the club.

(2) The remuneration of a person so appointed is an expense referred to in subsection (1) and is to be fixed by the commission.

### **Liability for losses incurred during administration**

**71.(1)** A person appointed by the commission to administer the affairs of a club is not liable for any loss incurred by the club during the person's term of office unless the loss was attributable to the person's—

- (a) wilful misconduct; or
- (b) gross negligence; or
- (c) wilful failure to comply with any provision of this Act.

(2) Neither the Crown nor the commission is liable for any loss incurred

by a club during the term of office of a person appointed under section 69 to administer the affairs of the club, whether or not the person is liable.

### **Continuance of licences in certain circumstances**

**72.(1)** If, under the *Liquor Act 1992*, part 5, division 2, a person is authorised to conduct the business of a person who is a licensee under this Act, then, subject to this Act—

- (a) the licensee's gaming machine licence continues in force for the period of the authorisation; and
- (b) the first person is authorised to conduct gaming on the licensee's licensed premises for the period of the authorisation.

**(2)** A person authorised under subsection (1)(b)—

- (a) is subject to the same liabilities under this Act as a licensee; and
- (b) is taken, for the purposes of part 8, to be the licensee whose business the person is authorised to conduct.

## **PART 3A—LICENSING OF MONITORING OPERATORS**

### *Division 1—Interpretation*

#### **References to operations of licensed operators**

**72A.** In this Act, a reference to the operations of a licensed operator is a reference to the operator's operations as a licensed operator.

#### **References to particular licensed operators**

**72B.** In this Act, a reference to a licensed operator in association with a reference to an operator's licence is a reference to the licensed operator who holds the operator's licence.

**References to particular monitoring operators' licences**

**72C.** In this Act, a reference to an operator's licence in association with a reference to a licensed operator is a reference to the operator's licence held by the licensed operator.

**Control action under the Corporations Law**

**72D.** For this Act, a licensed operator, or an associate of a licensed operator, is affected by control action under the Corporations Law if the operator or associate—

- (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.

*Division 2—Suitability of persons***Suitability of applicants for, and holders of, monitoring operators' licences**

**72E.(1)** This section applies to the chief executive in deciding whether—

- (a) an applicant (the **“involved body”**) for an operator's licence is a suitable person to be a licensed operator; or
- (b) a licensed operator (also the **“involved body”**) is a suitable person to hold an operator's licence.

**(2)** The chief executive must have regard to the following issues—

- (a) the involved body's business reputation;
- (b) the involved body's current financial position and financial background;
- (c) for the secretary and each executive officer of the involved body—
  - (i) the person's character; and

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- (ii) the person's current financial position and financial background;
- (d) the involved body's general suitability to be a licensed operator;
- (e) whether the involved body has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (f) whether the involved body has, or is able to obtain, enough financial resources to ensure the financial viability of the operations of a licensed operator;
- (g) whether the involved body has, or is able to obtain, the services of persons with appropriate business ability to enable the involved body to successfully conduct operations as a licensed operator;
- (h) whether the involved body has, or is able to obtain, the services of persons with appropriate knowledge or experience to enable the involved body to successfully operate electronic monitoring systems;
- (i) if the involved body has a business association with another entity—
  - (i) the entity's character or business reputation; and
  - (ii) the entity's current financial position and financial background;
- (j) any other issue prescribed under a regulation.

**Suitability of associates**

**72F.(1)** This section applies to the chief executive in deciding whether—

- (a) an associate of an applicant for an operator's licence is a suitable person to be an associate of a licensed operator; or
- (b) an associate of a licensed operator is a suitable person to be an associate of a licensed operator.

**(2)** The chief executive must have regard to the following issues—

- (a) the associate's character or business reputation;
- (b) the associate's current financial position and financial background;

- (c) if the associate has a business association with another entity—
  - (i) the entity's character or business reputation; and
  - (ii) the entity's current financial position and financial background;
- (d) any other issue prescribed under a regulation.

### **Other issues about suitability**

**72G.** Sections 72E and 72F do not limit the issues the chief executive may have regard to in deciding a matter to which the section relates.

### ***Division 3—Applications for, and issue of, monitoring operators' licences***

#### **Application for licence**

**72H.(1)** An application for an operator's licence may be made only by a body corporate.

- (2) An application must—
  - (a) be made to the chief executive; and
  - (b) be in the approved form.
- (3) An application must be accompanied by the following—
  - (a) a copy of the certificate of registration or incorporation as a body corporate of the applicant;
  - (b) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the applicant, in force when making the application;
  - (c) a copy of the resolution or minute of the proceedings of the governing body of the applicant giving approval for making the application;
  - (d) a copy of the last audited balance sheet or statement of the financial affairs of the applicant;

- (e) a disclosure affidavit;<sup>16</sup>
- (f) the application fee prescribed under a regulation.

(4) The copy of a document mentioned in subsection (3)(b) or (c) must be certified as a true copy by the secretary of the applicant or another person authorised by the applicant to make the certification.

### **Further information to support application**

**72I.(1)** The chief executive may, by written notice given to an applicant or an associate of an applicant for an operator's licence, require the applicant or associate to give the chief executive further information about the application within the reasonable time stated in the notice.

(2) A notice under subsection (1) must relate to information the chief executive considers reasonable for making a recommendation to the commission about the application.

### **Change in circumstances of applicant**

**72J.(1)** This section applies to an applicant for an operator's licence if, before the application is granted or refused, a change happens affecting—

- (a) information contained in, or accompanying, the application (other than information contained in a disclosure affidavit); or
- (b) information contained in, or accompanying, a notice, or the last notice, given to the chief executive under this section by the applicant.

(2) Within 7 days after the change, the applicant must give written notice of the change to the chief executive.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

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<sup>16</sup> Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

**Fresh disclosure affidavit by applicant**

**72K.(1)** This section applies to an applicant for an operator's licence if, before the application is granted or refused, a change happens affecting information contained in—

- (a) the disclosure affidavit that accompanied the application; or
- (b) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under this section by the applicant.

**(2)** Within 7 days after the change, the applicant must give a fresh disclosure affidavit to the chief executive.<sup>17</sup>

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

**Consideration of application**

**72L.** The chief executive must consider an application for an operator's licence as soon as practicable after receiving the application.

**Investigations about application**

**72M.(1)** In considering an application for an operator's licence, the chief executive must conduct the investigations the chief executive considers are necessary to help the chief executive decide—

- (a) whether the applicant is a suitable person to be a licensed operator; and
- (b) for a person who is a disclosed associate of the applicant—whether the person is a suitable person to be an associate of a licensed operator.

**(2)** Without limiting subsection (1), the chief executive may conduct the investigations the chief executive considers are necessary to help the chief executive decide whether a general associate of the applicant is a suitable person to be an associate of a licensed operator.

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<sup>17</sup> Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

**Criminal history reports for investigation**

**72N.(1)** If the chief executive, in conducting an investigation about a person asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.

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

**Recommendation about application**

**72O.(1)** After completing the consideration of an application for an operator's licence, the chief executive must recommend to the commission the application be granted or refused.

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

- (a) the suitability of the applicant to be a licensed operator; and
- (b) for a person who is a disclosed associate of the applicant—the suitability of the person to be an associate of a licensed operator.

**(3)** Also, if the chief executive considers it is appropriate, the chief executive may, in making a recommendation, have regard to the suitability of a general associate of the applicant to be an associate of a licensed operator.

**(4)** The chief executive may recommend the granting of an application only if the chief executive is satisfied the applicant is a suitable person to be a licensed operator.

**(5)** The chief executive may recommend the refusal of an application if—

- (a) the chief executive has given a notice to the applicant, or a disclosed associate of the applicant, requiring the applicant or associate to give further information about the application; and
- (b) the applicant or associate has failed, without reasonable excuse, to give the information to the chief executive within the time stated in the notice.

**Decision about application**

**72P.(1)** The commission may grant or refuse to grant an application for an operator's licence.

(2) Before making its decision, the commission may, by written notice given to the applicant, or a disclosed associate of the applicant, require the applicant or associate to give the commission further information about the application within the reasonable time stated in the notice.

(3) A notice under subsection (2) must relate to information the commission considers reasonable for making a decision about the application.

(4) In making its decision, the commission—

- (a) must have regard to the chief executive's recommendation; and
- (b) may have regard to other issues the commission considers relevant.

(5) The commission may grant an application only if it is satisfied the grant is not contrary to the public interest.

(6) The commission may refuse to grant an application if—

- (a) the commission has given a notice to the applicant, or a disclosed associate of the applicant, requiring the applicant or associate to give further information about the application; and
- (b) the applicant or associate has failed without reasonable excuse, to give the information to the commission within the time stated in the notice.

(7) If the commission decides to grant an application for an operator's licence, the chief executive must promptly issue the licence to the applicant on payment of the licence fee prescribed under a regulation.

(8) If the commission decides to refuse to grant an application for an operator's licence, the chief executive must promptly give the applicant an information notice about the decision.

**Conditions of licences**

**72Q.(1)** An operator's licence is issued on the conditions the commission considers necessary or desirable—

- (a) in the public interest; or
- (b) for the proper conduct of gaming; or
- (c) for the proper conduct by the licensed operator of its operations involving electronic monitoring systems.

(2) If an operator's licence is issued on conditions, the chief executive must promptly give the applicant an information notice about the commission's decision to impose the conditions.

### **Form of licence**

**72R.(1)** An operator's licence must be in the approved form.

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

- (a) the name and address of the holder of the licence;
- (b) the date of issue of the licence;
- (c) the expiry date of the licence;
- (d) the conditions of the licence;
- (e) other particulars prescribed under a regulation.

### **Duration of licence**

**72S.** An operator's licence remains in force for 10 years from its date of issue.

## ***Division 4—Dealings affecting operators' licences***

### **Changing conditions of licence**

**72T.(1)** The commission may change the conditions of an operator's licence if the commission considers it is necessary or desirable to make the change—

- (a) in the public interest; or
- (b) for the proper conduct of gaming; or

(c) for the proper conduct by the licensed operator of its operations involving electronic operating systems.

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

(3) The change of the conditions—

- (a) has effect from the day stated in the notice; and
- (b) does not depend on the licence being amended to record the change, or a replacement licence recording the change being issued.

(4) The commission's power to change the conditions of an operator's licence includes the power to add conditions to an unconditional licence.

### **Recording change of conditions**

**72U.(1)** A licensed operator who receives an information notice under section 72T(2) must return the operator's licence to the chief executive within 14 days after receiving the notice, unless the operator has a reasonable excuse.

Maximum penalty—40 penalty units.

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

- (a) amend the licence in an appropriate way and return the amended licence to the licensed operator; or
- (b) if the chief executive does not consider it is practical to amend the licence—issue another operator's licence, incorporating the changed conditions, to the licensed operator to replace the licence returned to the chief executive.

### **Extension of licence**

**72V.(1)** A licensed operator may apply for an extension of the operator's licence.

(2) An application must—

- (a) be made to the chief executive; and

- (b) be in the approved form; and
- (c) be made at least 1 month before the licence expires; and
- (d) be accompanied by the application fee prescribed under a regulation.

(3) The chief executive may, by written notice given to the licensed operator, extend the term of the licence—

- (a) only if the chief executive believes special circumstances exist to warrant the extension; and
- (b) only for a maximum period of 1 month from the date the licence would, apart from this section, expire.

### **Renewal of licence—application**

**72W.(1)** A licensed operator may apply for renewal of the operator's licence.

(2) An application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be made—
  - (i) at least 1 month before the licence expires; or
  - (ii) if, before the licence expires, the chief executive extends the term of the licence—within the extended period.

(3) An application must be accompanied by the following—

- (a) a list of the names, addresses and dates of birth of—
  - (i) the secretary of the applicant; and
  - (ii) the executive officers of the applicant; and
  - (iii) all other persons who have been the secretary or an executive officer of the applicant since the licence was issued or last renewed;

- (b) a disclosure affidavit;<sup>18</sup>
- (c) the application fee prescribed under a regulation.

### **Renewal of licence—decision**

**72X.(1)** The chief executive must consider an application for renewal of an operator's licence and renew, or refuse to renew, the licence.

**(2)** The chief executive must renew the licence if the licensed operator complies with section 72W and pays the licence renewal fee prescribed under a regulation.

**(3)** If the chief executive refuses to renew the licence, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person may appeal against the decision to the Minister within 14 days of the notice being given.

**(4)** The renewal of a licence is for 10 years starting on—

- (a) the day after its last expiry; or
- (b) if the term of the licence has been extended—the day after the licence would have last expired apart from the extension.

### **Replacement of licence**

**72Y.(1)** A licensed operator may apply to the chief executive for the replacement of a lost, stolen, destroyed or damaged operator's licence.

**(2)** The application must be accompanied by the fee prescribed under a regulation for issuing a replacement licence.

**(3)** The chief executive must consider the application and—

- (a) replace the licence by issuing another operator's licence to the applicant; or

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<sup>18</sup> Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

(b) refuse to replace the licence.

(4) The chief executive must replace the licence if the chief executive is satisfied the licence—

(a) has been lost, stolen or destroyed; or

(b) has been damaged in a way to require its replacement.

(5) If the chief executive refuses to replace the licence, the chief executive must promptly give the applicant a written notice stating—

(a) the decision; and

(b) the reasons for the decision; and

(c) that the person may appeal against the decision to the Minister within 14 days of the notice being given.

(6) A replacement licence has the same effect for all purposes as the licence it replaces.

### **Licence not transferable**

**72Z.** An operator's licence is not transferable.

### **Surrender of licence**

**72ZA.(1)** A licensed operator may surrender the operator's licence by written notice given to the chief executive.

(2) The notice must—

(a) be in the approved form; and

(b) be accompanied by the licence.

(3) The chief executive must give the operator a notice stating the day the surrender is to take effect.

(4) The day stated by the chief executive must be—

(a) at least 1 month after the day the notice was given; but

(b) not longer than 3 months after the day the notice was given.

***Division 5—Investigation of licensed operators and associates*****Audit programs**

**72ZB.(1)** The Minister may approve an audit program for investigating licensed operators or associates of licensed operators.

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

(3) However, a person may be investigated under an approved audit program only once every 2 years.

**Investigation of licensed operator**

**72ZC.(1)** The chief executive may conduct an investigation the chief executive considers is necessary to help the chief executive decide whether a licensed operator is a suitable person to hold an operator's licence.

(2) However, the chief executive may conduct an investigation under this section only if—

- (a) the chief executive reasonably suspects the licensed operator is not a suitable person to hold an operator's licence; or
- (b) the investigation is conducted under an audit program for licensed operators approved by the Minister.

**Investigation of associate**

**72ZD.(1)** The chief executive may conduct an investigation the chief executive considers is necessary to help the chief executive decide whether an associate of a licensed operator is a suitable person to be an associate of a licensed operator.

(2) However, the chief executive may conduct an investigation under this section only if—

- (a) the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed operator; or
- (b) the investigation is conducted under an audit program for associates of licensed operators approved by the Minister.

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

**72ZE.(1)** The chief executive may, by written notice given to a person to whom an investigation under this division relates, require the person to give the chief executive information or material the chief executive considers is relevant to the investigation.

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

**Failure to give information or material for investigation**

**72ZF.(1)** A person of whom a requirement is made under section 72ZE must comply with the requirement, unless the person has a reasonable excuse.

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

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

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

***Division 6—Suspension and cancellation of monitoring operators' licences***

**Grounds for suspension or cancellation**

**72ZG.(1)** A ground for suspending or cancelling an operator's licence exists if the licensed operator, or an associate of the operator—

- (a) is not a suitable person—
  - (i) to hold an operator's licence; or
  - (ii) to be an associate of a licensed operator; or
- (b) is convicted of an offence against this Act; or
- (c) is convicted of an indictable offence (whether on indictment or

summarily) punishable by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or

- (d) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or
  - (e) fails to discharge the operator's or associate's financial commitments; or
  - (f) is affected by control action under the Corporations Law.
- (2) Also, a ground for suspending or cancelling the licence exists if—
- (a) the licensed operator contravenes a condition of the licence; or
  - (b) the licence was issued because of a materially false or misleading representation or declaration.

### **Show cause notice**

**72ZH.(1)** This section applies if the chief executive believes—

- (a) a ground exists to suspend or cancel an operator's licence; and
- (b) the act, omission or other thing constituting the ground is of a serious nature; and
- (c) either—
  - (i) the integrity of gaming or the conduct of gaming may be jeopardised; or
  - (ii) the public interest may be affected adversely.

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

- (a) stating that action (the **“proposed action”**) is proposed to be taken under this division about the operator's licence; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) inviting the operator to show within a stated period (the **“show cause period”**) why the proposed action should not be taken.

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

(4) The licensed operator may make written representations about the show cause notice to the chief executive in the show cause period.

### **Involvement of interested persons in show cause process**

**72ZI.(1)** The chief executive must give a copy of the show cause notice to each person (an “**interested person**”) the chief executive considers has an interest in the operator’s licence.

(2) An interested person to whom a copy of the show cause notice is given may make written representations about the notice to the chief executive in the show cause period.

### **Consideration of representations**

**72ZJ.** The chief executive must consider all written representations (the “**accepted representations**”) made in the show cause period by—

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

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

**72ZK.(1)** This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the operator’s licence.

(2) The chief executive must not take further action about the show cause notice.

### **Censuring licensed operator**

**72ZL.(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 operator’s licence; but

(b) does not believe suspension or cancellation of the licence is warranted.

(2) This section also applies if the chief executive has not given a show cause notice to a licensed operator, but—

(a) believes a ground exists to suspend or cancel the operator's licence; and

(b) does not believe the giving of a show cause notice is warranted.

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

### **Direction to rectify**

**72ZM.(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 operator's licence; and

(b) believes further action, other than censuring of the licensed operator, is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The chief executive may—

(a) by written notice given to the licensed operator, direct the operator to rectify a matter relating to the ground for suspension or cancellation within the period stated in the notice; or

(b) take action under section 72ZN.

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

(5) The chief executive may direct the licensed operator to rectify a matter only if the chief executive considers—

(a) the matter is reasonably capable of being rectified; and

(b) it is appropriate to give the operator an opportunity to rectify the matter.

**Recommendation to suspend or cancel**

**72ZN.(1)** This section applies if—

- (a) the circumstances mentioned in section 72ZM(1) or (2) exist and the chief executive has not directed the licensed operator to rectify a matter; or
- (b) the licensed operator fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

(2) The chief executive may recommend to the commission that the operator's licence be suspended or cancelled.

(3) The chief executive must give to the commission with the recommendation—

- (a) a copy of the show cause notice; and
- (b) the accepted representations for the show cause notice; and
- (c) any other information or material in the chief executive's possession the chief executive considers is relevant to the recommendation.

**Decision of commission**

**72ZO.(1)** On receiving a recommendation from the chief executive, the commission may—

- (a) decide not to take any action in relation to the licensed operator or operator's licence; or
- (b) by written notice given to the licensed operator, censure the operator for a matter relevant to the show cause notice; or
- (c) if the commission considers a matter relevant to the show cause notice is reasonably capable of being rectified—by written notice given to the licensed operator, direct the operator to rectify the matter within the reasonable period stated in the commission's notice; or
- (d) suspend the operator's licence for the period the commission considers appropriate; or
- (e) cancel the operator's licence.

(2) In making its decision under subsection (1), the commission—

- (a) must have regard to—
  - (i) the chief executive's recommendation; and
  - (ii) the accepted representations, and any other information or material, given to the commission by the chief executive with the recommendation; and
- (b) may have regard to any other information or material the commission considers is relevant.

(3) If the commission directs the licensed operator to rectify a matter and the operator fails to comply with the direction within the period stated in the relevant notice, the commission may—

- (a) suspend the operator's licence for the period the commission considers appropriate; or
- (b) cancel the operator's licence.

### **Suspension or cancellation**

**72ZP.(1)** If the commission decides to suspend or cancel an operator's licence, the chief executive must promptly give the licensed operator an information notice about the decision.

(2) The decision takes effect on—

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

(3) If an operator's licence is cancelled, the person to whom the information notice about the decision is given must, within 14 days after receiving the notice, return the licence to the chief executive.

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

(4) At any time a suspension of an operator's licence is in force, the commission may, by written notice given to the operator, for any remaining period of suspension—

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

(5) In making its decision under subsection (4), the commission must have regard to any relevant recommendation of the chief executive.

### **Immediate suspension**

**72ZQ.(1)** The commission may suspend an operator's licence if the commission believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) the act, omission or other thing constituting the ground is of a serious nature; and
- (c) either—
  - (i) the integrity of gaming or the conduct of gaming is jeopardised; or
  - (ii) the public interest is affected adversely.

(2) In making a decision to suspend an operator's licence, the commission must have regard to any advice about the suspension given to it by the chief executive.

(3) If the commission decides to suspend an operator's licence, the chief executive—

- (a) must promptly give the licensed operator an information notice; and
- (b) must give the operator a show cause notice as if the chief executive had formed the belief mentioned in section 72ZH(1)<sup>19</sup> about the act, omission or other thing constituting the ground for suspending the licence; and
- (c) must not, without the commission's agreement—
  - (i) make a decision under section 72ZK; or<sup>20</sup>
  - (ii) take action under section 72ZL or 72ZM.<sup>21</sup>

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<sup>19</sup> Section 72ZH (Show cause notice)

<sup>20</sup> Section 72ZK (Ending show cause process without further action)

<sup>21</sup> Section 72ZL (Censuring licensed operator) or 72ZM (Direction to rectify)

(4) The suspension of an operator's licence—

(a) takes effect—

(i) when the information notice is given to the licensed operator;  
or

(ii) if an earlier notice of the suspension is given orally to the licensed operator by the chief executive—when the oral notice is given to the licensed operator; and

(b) continues to operate until the show cause notice is finally dealt with.

(5) The giving of a show cause notice does not affect a suspension under subsection (1).

### **Effect of suspension**

**72ZR.** The suspension of an operator's licence has the same effect as the cancellation of the licence, but does not affect—

(a) a penalty or liability incurred by the licensed operator; or

(b) the exercise of the powers of the commission, the chief executive or an inspector.

### **Notices to interested persons**

**72ZS.** If under any of the following sections, the chief executive or the commission is required to take, or not to take, action or the chief executive or the commission decides to take or not to take action, the chief executive must, as soon as practicable, give written notice of the requirement or decision to each interested person—

(a) section 72ZK(2);

(b) section 72ZL(3);

(c) section 72ZM(5);

(d) section 72ZO(1);

(e) section 72ZQ(3)(a) and (b).

***Division 7—Obligations of licensed operators*****Change in circumstances of licensed operator**

**72ZT.(1)** A licensed operator must, within 7 days after the happening of an event mentioned in subsection (2), give written notice of the event to the chief executive.

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

**(2)** The events required to be notified by the licensed operator are as follows—

- (a) the operator changes its name or address;
- (b) the operator is convicted of—
  - (i) an offence against this Act; or
  - (ii) an indictable offence (whether on indictment or summarily) punishable by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);
- (c) the operator is affected by control action under the Corporations Law.

**Fresh disclosure affidavit by licensed operator**

**72ZU.(1)** This section applies to a licensed operator if a change happens affecting information contained in—

- (a) the disclosure affidavit that accompanied the application for the operator’s licence; or
- (b) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under section 72K<sup>22</sup> by the operator; or
- (c) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under this section by the operator.

**(2)** Within 7 days after the change, the licensed operator must give a fresh disclosure affidavit to the chief executive.

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<sup>22</sup> Section 72K (Fresh disclosure affidavit by applicant)

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

### **Change of officers of licensed operator**

**72ZV.(1)** This section applies to a licensed operator if a change happens by which a person stops being, or becomes, the secretary or an executive officer of the operator.

**(2)** The licensed operator must, as required by this section, notify the chief executive of—

- (a) the change; and
- (b) the name, address and date of birth of the person involved in the change.

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

**(3)** The notice must—

- (a) be in the approved form; and
- (b) be given within 7 days after the change.

### **Returns about licensed key monitoring employees**

**72ZW.(1)** A licensed operator must give the chief executive a return as required by this section stating the name and licence number of each person employed by the operator as a licensed key monitoring employee when the return is given.

Maximum penalty—40 penalty units.

**(2)** The return must be in the approved form and must be given—

- (a) within 7 days after the operator's licence is issued; and
- (b) each time the licensed operator applies for renewal of the licence.

**(3)** The chief executive may also request a return at other times.

**(4)** A return under subsection (3) must also be in the approved form and must be given within 7 days of the chief executive's request.

**(5)** A request under subsection (3) must not be made within 3 months of the last request made to the licensed operator under subsection (3).

**Change of licensed key monitoring employees**

**72ZX.(1)** This section applies to a licensed operator if—

- (a) a person becomes employed by the operator as a licensed key monitoring employee; or
- (b) a person stops being employed by the operator as a licensed key monitoring employee.

**(2)** The licensed operator must give the chief executive a notice as required by this section stating—

- (a) the person's name and licence number; and
- (b) the name and licence number of each other person employed by the operator as a licensed key monitoring employee when the notice is given.

Maximum penalty—40 penalty units.

**(3)** The notice must—

- (a) be in the approved form; and
- (b) be given within 7 days after the person becoming, or stopping to be, employed by the licensed operator as a licensed key monitoring employee.

**Ending person's employment**

**72ZY.(1)** If a licensed operator becomes aware a person employed by the operator as a licensed key monitoring employee is not a licensed key monitoring employee, the operator must immediately end the person's employment as a licensed key monitoring employee.

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

**(2)** Subsection (1) applies despite another Act or law or any award or agreement of an industrial nature.

**(3)** A licensed operator does not incur any liability because the operator ends the employment of a person under subsection (1).

***Division 8—Other matters*****Disclosure affidavits about persons having influence or receiving benefits**

**72ZZ.(1)** This section applies to each of the following affidavits (a “**disclosure affidavit**”)—

- (a) an affidavit required by section 72H(3)<sup>23</sup> to accompany an application made by a person for an operator’s licence;
- (b) an affidavit required by section 72K<sup>24</sup> to be given to the chief executive by an applicant for an operator’s licence;
- (c) an affidavit required by section 72W<sup>25</sup> to accompany an application for renewal of an operator’s licence made by the licensed operator;
- (d) an affidavit required by section 72ZU<sup>26</sup> to be given to the chief executive by a licensed operator.

**(2)** In this section, a reference to the responsible body is a reference to each of the following—

- (a) a person mentioned in subsection (1)(a);
- (b) an applicant mentioned in subsection (1)(b);
- (c) a licensed operator mentioned in subsection (1)(c) or (d).

**(3)** The affidavit must be made by—

- (a) the principal executive officer of the responsible body; or
- (b) if the principal executive officer does not have knowledge of the relevant facts—another person who has the knowledge and is authorised by the responsible body to make the affidavit.

**(4)** The affidavit must disclose the following—

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<sup>23</sup> Section 72H (Application for licence)

<sup>24</sup> Section 72K (Fresh disclosure affidavit by applicant)

<sup>25</sup> Section 72W (Renewal of licence—application)

<sup>26</sup> Section 72ZU (Fresh disclosure affidavit by licensed operator)

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- (a) whether or not a person (other than an authorised involved person of the responsible body) may, under an agreement, be able to influence a decision made by the responsible body, or the secretary or an executive officer of the responsible body, about the performance of the general functions that are, or are to be, permitted by the operator's licence;
- (b) whether or not a person (other than the responsible body) may, under an agreement, expect to receive a benefit from the responsible body because of the performance of the general functions that are, or are to be, permitted by the operator's licence;
- (c) the names of all persons who are substantial shareholders of the responsible body under the Corporations Law, section 708.<sup>27</sup>

(5) Also, if there is a person who satisfies a description mentioned in subsection (4)(a) or (b), the affidavit must disclose—

- (a) if the person is an individual—the person's name, address and date of birth; and
- (b) if the person is a body corporate—
  - (i) the body corporate's name; and
  - (ii) the name, address and date of birth of the secretary and each executive officer of the body corporate; and
- (c) full and correct particulars of the agreement.

(6) Despite subsections (4) and (5), the affidavit need not disclose anything prescribed under a regulation as being exempt from the operation of this section.

(7) In this section—

**“agreement”** includes a lease or arrangement.

**“authorised involved person”**, of a responsible body, means the secretary, or an executive officer, member or shareholder, of the responsible body carrying out the duties, or exercising the normal rights, the person has in that capacity.

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<sup>27</sup> Corporations Law, section 708 (Substantial shareholdings and substantial shareholders)

## **PART 4—LICENSING OF REPAIRERS, SERVICE CONTRACTORS, MACHINE MANAGERS AND KEY MONITORING EMPLOYEES**

### **Unlicensed persons not to install etc. gaming equipment**

**73.(1)** Subject to subsection (3), a person who is not an inspector or a licensed repairer must not install, alter, adjust, maintain or repair gaming equipment on licensed premises.

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

**(2)** Subject to subsection (3), a person must not—

- (a) employ or allow; or
- (b) cause another person to employ or allow;

a person who is not an inspector or a licensed repairer to install, alter, adjust, maintain or repair gaming equipment on licensed premises.

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

**(3)** This section does not apply to such installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of this subsection.

### **Unlicensed persons not to be service contractors**

**74.(1)** A person must not enter into a service contract with a licensee, a person on behalf of a licensee or the chief executive unless the first person is—

- (a) a licensed service contractor; or
- (b) a licensed repairer carrying on the business of a licensed repairer in the person’s own right and not as a partner in a partnership.

**(2)** A person must not enter into an agreement with—

- (a) a licensed service contractor; or
- (b) a licensed repairer referred to in subsection (1)(b);

to subcontract from the licensed service contractor or licensed repairer a service contract unless the person is a licensed service contractor or a

licensed repairer referred to in subsection (1)(b).

(3) A licensed service contractor or a licensed repairer referred to in subsection (1)(b) must not enter into an agreement with a person to subcontract to that person a service contract, unless the person is—

- (a) a licensed service contractor; or
- (b) a licensed repairer referred to in subsection (1)(b).

(4) A person who enters into an agreement referred to in subsection (2) or (3) must not subcontract the service contract the subject of the agreement.

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

### **Unlicensed persons not to be machine managers**

**75.(1)** Subject to subsections (4) and (6), such duties as are prescribed for the purposes of this subsection must be carried out only by a licensed machine manager who is employed under subsection (3) to carry out the duties in respect of the licensee's licensed premises.

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

(2) Subject to subsections (4) and (6), a person must not—

- (a) employ or allow; or
- (b) cause another person to employ or allow;

a person who is not a licensed machine manager employed under subsection (3) in respect of the licensed premises in question to carry out the duties prescribed for the purposes of subsection (1).

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

(3) Subject to subsection (4), a licensee must ensure at all times in respect of each of the licensee's licensed premises that there are at least 2 licensed machine managers employed by the licensee to carry out the duties prescribed for the purposes of subsection (1).

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

(4) If a licensee is unable to comply with subsection (3), the licensee, with the approval of the chief executive, may employ a sufficient number of persons (who are applicants for a machine manager's licence) so that there are at least 2 persons who are licensed machine managers or applicants for a

machine manager's licence to carry out the duties prescribed for the purposes of subsection (1) in respect of each of the licensee's licensed premises.

(5) Subject to subsection (6), a licensee must ensure that at all times when gaming is being conducted on the licensee's licensed premises there is present on the premises, or readily available, at least 1 licensed machine manager employed by the licensee under subsection (3) or an applicant for a machine manager's licence employed by the licensee under subsection (4) in respect of the premises.

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

(6) If a licensee is unable to comply with subsection (5) the licensee, with the approval of the chief executive, may employ any person to carry out the duties prescribed for the purposes of subsection (1) for a period of 7 days.

(7) Until a licensee is able to comply with subsection (5) or obtains the chief executive's approval under subsection (6), the licensee must cease the conduct of gaming on the licensee's licensed premises.

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

### **Unlicensed persons not to be key monitoring employees**

**75A.(1)** A person must not carry out a function of a key monitoring employee unless the person is a licensed key monitoring employee.

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

(2) A licensed operator must not—

- (a) employ, or use the services of, a person to carry out a function of a key monitoring employee unless the person is a licensed key monitoring employee; or
- (b) allocate, or permit to be allocated, to a person the carrying out of any function of a key monitoring employee unless the person is a licensed key monitoring employee.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

**Certain persons must apply for machine manager's licence**

**76.(1)** Where the commission, having regard to the advice of the chief executive, considers that any person connected with, or who is an employee of, a licensee—

- (a) has the power to exercise a significant influence over the conduct of gaming by the licensee; or
- (b) because of—
  - (i) that person's remuneration or policy making position; or
  - (ii) any other criteria determined by the Minister;

exercises or is able to exercise authority of such a nature or to such an extent in respect of the conduct of gaming by the licensee as to make it desirable in the public interest that that person be a licensed machine manager;

the commission, by written notice, must require that person to apply for a machine manager's licence within 7 days after the receipt by that person of the notice.

**(2)** The commission must cause a copy of the notice to be served on the licensee.

**(3)** A person who fails within 7 days to comply with a notice under subsection (1) and continues to be connected or employed as referred to in subsection (1) commits an offence against this Act.

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

**(4)** Where a person fails within 7 days to comply with a notice under subsection (1) and continues to be connected or employed as referred to in subsection (1), the commission must cause a written notice of the failure to be served on the licensee.

**(5)** The licensee immediately a notice under subsection (4) is served, despite any other Act or law or any industrial award or agreement, must terminate the connection with or employment of the person.

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

**(6)** If the commission refuses to grant an application made by a person referred to in subsection (1)—

- (a) that person, on receipt of notification of the refusal, must cease to be connected or employed as referred to in subsection (1); and
- (b) the licensee, on receipt of the notification of the refusal, must terminate the connection or employment.

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

(7) A licensee does not incur any liability in respect of the termination under this section of any connection or employment referred to in subsection (1).

### **Certain persons must apply for key monitoring employee’s licence**

**76A.(1)** If the commission, having regard to any relevant advice of the chief executive, considers a person is a key officer of a licensed operator, the commission must, by written notice given to the person, require the person, within 7 days after receiving the notice, either—

- (a) to apply for a key monitoring employee’s licence; or
- (b) to stop being a key officer of the operator.

(2) The commission must give a copy of the notice to the licensed operator.

(3) The person to whom the notice is given must, within 7 days after receiving the notice, comply with the requirement (the “**licensing requirement**”) stated in the notice, unless the person has a reasonable excuse.

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

(4) If the person fails to comply with the licensing requirement, the commission must give written notice of the failure to the licensed operator.

(5) The licensed operator must, immediately on receipt of the notice under subsection (4), end the association with, or employment of, the person.

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

(6) If the person complies with the licensing requirement by applying for a key monitoring employee’s licence but the commission refuses to grant the application—

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- (a) on receipt by the person of notice of the refusal—the person must stop being a key officer of the licensed operator; and
- (b) on receipt by the operator of notice of the refusal—the operator must end the association with, or employment of, the person.

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

(7) Subsections (5) and (6)(b) apply to the licensed operator despite another Act or law or any award or agreement of an industrial nature.

(8) A licensed operator does not incur any liability because the operator ends an association with, or the employment of, a person under this section.

**Applications for licences under this part**

**77.(1)** An application for the grant of a repairer's, service contractor's, machine manager's or key monitoring employee's licence—

- (a) is to be made in the approved form; and
- (b) in the case of an application by a natural person—is to be signed by the applicant; and
- (c) in the case of an application by a body corporate—is to be—
  - (i) executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorised in that behalf by the body corporate; or
  - (ii) if the chief executive considers that subparagraph (i) cannot reasonably be complied with, executed or signed in such other way as the chief executive allows; and
- (d) is to state the full name, address and date of birth—
  - (i) in the case of an application by a natural person—of the applicant; and
  - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application for a repairer's, machine manager's or key monitoring employee's licence—is to be accompanied by photographs of the applicant, of such type and number as are

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determined by the chief executive and certified in such way as is so determined; and

- (f) in the case of an application by a body corporate—is to be accompanied by—
  - (i) a copy of the certificate of incorporation of the body corporate; and
  - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate; and
  - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
  - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and
- (g) in the case of an application for a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 89; and
- (h) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
- (i) is to be forwarded to or lodged with the chief executive; and
- (j) is to be accompanied by the fee prescribed.

(2) It is a condition precedent to consideration of an application for a repairer's, machine manager's or key monitoring employee's licence that the applicant is agreeable to the applicant's fingerprints and palm prints being taken by or on behalf of the chief executive.

**Changes in circumstances of applicants for and holders of licences**

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

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

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

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

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

- (a) the holder of the licence changes name or address; or
- (b) the holder of the licence—
  - (i) is convicted of an offence against this Act; or
  - (ii) if the holder is an individual—fails to discharge the holder’s financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws about bankruptcy; or
  - (iii) if the holder is a body corporate—is the subject of a winding-up (whether voluntarily or under a court order), appointment of a liquidator, appointment of a receiver or receiver and manager, or is placed under official management and an official manager appointed under the Corporations Law; or
  - (iv) is convicted of an indictable offence (whether on indictment or summarily) punishable in the particular case by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment).

**Consideration of applications**

**79.(1)** Upon receipt of an application for a licence under this part, and

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compliance by the applicant with this part in relation to the application, the chief executive must—

- (a) if the application is for a repairer's, machine manager's or key monitoring employee's licence—cause the fingerprints and palm prints of the applicant to be taken; and
- (b) initiate and have followed through such investigations as the chief executive considers are necessary in relation to the application; and
- (c) consider the application and anything accompanying it together with the results of investigations made under paragraph (b) and make an assessment of—
  - (i) if the applicant is a natural person—the financial stability, general reputation and character of the applicant; and
  - (ii) if the applicant is a body corporate—the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate; and
  - (iii) if any person is mentioned in an affidavit under section 89—the suitability of that person to be an associate of the applicant; and
  - (iv) if the chief executive considers it appropriate, the suitability of any other associate of the applicant to be an associate of the applicant; and
  - (v) the suitability of the applicant to be a holder of the licence for which application is made.

(2) The chief executive must make a recommendation to the commission that a licence under this part be granted or refused.

(3) The chief executive is not to recommend that a licence be granted if—

- (a) if the applicant is an individual—
  - (i) the applicant is not 18; or
  - (ii) the applicant has failed to have fingerprints and palm prints taken under subsection (1)(a) or section 77(2);
- (b) in the case of an application by a body corporate—the secretary or

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any of the executive officers of the body corporate has not attained the age of 18 years;

- (c) the applicant, or an associate of the applicant, has failed to submit information or material required by the chief executive or the commission under subsection (4).

(4) The chief executive or commission may require the applicant, or any associate of the applicant, to submit such additional information or material as the chief executive or the commission considers is necessary in order to make a recommendation or decision.

(5) Any such additional information or material is to be considered in making the recommendation or decision.

(6) Where—

- (a) an application for a repairer's, machine manager's or key monitoring employee's licence is refused; or
- (b) a person ceases to be a licensed repairer, licensed machine manager or licensed key monitoring employee;

any fingerprints and palm prints of the applicant or person taken under subsection (1)(a), in respect of that application or licence, are to be destroyed as soon as practicable.

**Commission may grant or refuse to grant licences**

**80.(1)** The commission, having regard to the recommendation of the chief executive and to such other information or material as the commission considers is relevant, may grant or refuse to grant licences under this part.

(2) The chief executive must immediately give the applicant written notice of—

- (a) the commission's decision; and
- (b) if the application is refused—the reasons for the refusal.

(3) If the chief executive grants an approval under section 75(4), the chief executive is to give a copy of the notification under subsection (2) to the licensee to whom the approval was granted.

**Issue of licences**

**81.(1)** Where the commission grants a licence under this part, the chief executive must issue the licence.

**(2)** The licence is to be in the approved form for the licence in question and is to—

- (a) specify the name of the holder of the licence; and
- (b) in the case of a repairer's licence, machine manager's or key monitoring employee's licence—show on the licence the photograph of the holder of the licence; and
- (c) specify the expiry date of the licence; and
- (d) specify any conditions imposed under section 84.

**Issue of copy licence**

**82.(1)** If the chief executive is satisfied that a licence under this part that is in force has been damaged, lost or destroyed, the chief executive, upon payment of the fee prescribed, may issue to the holder of the licence a copy of the licence.

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

**Term of licences**

**83.(1)** Subject to this Act, a licence under this part remains in force for 2 years from the date of issue of the licence.

**(2)** A licence under this part may be renewed.

**Conditions of licences**

**84.** A licence under this part is subject to such conditions (including any variation of the conditions made under section 85) as the commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 85.

**Variation of conditions imposed on a licence**

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

- (a) the imposition of conditions or further conditions on the licence; or
- (b) a variation to the conditions imposed on the licence under section 84 or paragraph (a) of this subsection;

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

**(2)** If the commission imposes or varies conditions under subsection (1), the chief executive must immediately give the holder of the licence written notice of—

- (a) the conditions or varied conditions; and
- (b) reasons for the imposition or variation.

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

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

Maximum penalty—40 penalty units.

**(5)** After endorsing the licence, the chief executive is to return it to the holder of the licence.

**Renewal and continuance of licences**

**86.(1)** A holder of a licence under this part may apply to the chief executive for renewal of the licence.

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

- (a) is to be in the approved form; and
- (b) in the case of a repairer's, machine manager's or key monitoring employee's licence—is to be accompanied by photographs of the

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applicant, of such type and number as are required under the form; and

- (c) is to be accompanied by the fee prescribed; and
- (d) is to be made, unless the chief executive otherwise allows, at least 1 month before the expiration of the licence; and
- (e) in the case of an application by a body corporate—is to be accompanied by a list of the names, addresses and dates of birth of—
  - (i) the secretary of the body corporate; and
  - (ii) the executive officers of the body corporate; and
  - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
- (f) in the case of a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 89.

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

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

(5) If a licensee complies with this section, the chief executive must renew the licence for 2 years starting on—

- (a) the day after its last expiry; or
- (b) the day it would have last expired apart from its extension under subsection (3).

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

**Licences not to be transferred**

**87.** A licence under this part is not to be transferred.

**Display of certain licences**

**88.(1)** A licensed repairer must at all times whilst installing, altering, adjusting, maintaining or repairing gaming equipment on licensed premises display the licensed repairer's licence currently in force on the licensed repairer's person in such way as to be visible to other persons unless the licence at any material time is in the possession of the chief executive.

Maximum penalty—40 penalty units.

**(2)** A licensed key monitoring employee carrying out functions as a key monitoring employee must, if asked by another person, produce the key monitoring employee's licence held by the employee for the other person's inspection, unless, at the material time, the licence is in the chief executive's possession.

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

**Disclosure of influential or benefiting parties**

**89.(1)** At the time of making an application for—

- (a) a repairer's or service contractor's licence—the applicant; or
- (b) a renewal of a repairer's or service contractor's licence—the licensed repairer or licensed service contractor;

must forward to or lodge with the chief executive an affidavit made under this section.

**(2)** An applicant or a licensed repairer or licensed service contractor who undergoes any change in circumstances in relation to information contained in the last affidavit forwarded or lodged under this section by the applicant or holder of the licence must, within 7 days of the change, forward to or lodge with the chief executive a fresh affidavit made under this section.

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

**(3)** An affidavit under this section is to be made by—

- (a) in the case of any applicant for or holder of the licence being a natural person—that person; or
- (b) in the case of any applicant for or holder of the licence being a body corporate—

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- (i) the principal executive officer of the body corporate; or
- (ii) if that officer does not have knowledge of the facts—some other person who has knowledge of the facts and who is authorised by the body corporate to make the affidavit.

(4) An affidavit under this section is to be in the approved form and must disclose—

- (a) whether or not there is any person (other than, where the applicant or holder of the licence is a body corporate, the secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—

- (i) in the case of the applicant or holder of the licence being a natural person—by that person; or
- (ii) in the case of the applicant or holder of the licence being a body corporate—by the body corporate or the secretary or an executive officer of the body corporate;

in relation to the performance of the general functions that are, or are to be, permitted by the licence; and

- (b) whether or not there is any person other than the applicant or holder of the licence who by any lease, agreement or arrangement may expect any benefit from the applicant or holder in relation to the performance of the general functions that are, or are to be, permitted by the licence; and

- (c) if there is any person able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—

- (i) where any such person is a natural person—the person's full name, address and date of birth; and
- (ii) where any such person is a body corporate—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and

- (iii) full and correct particulars of the lease, agreement or

arrangement; and

- (d) in the case of the applicant or holder of the licence being a body corporate—the names of all persons who are substantial shareholders of the body corporate under the Corporations Law, section 708.

(5) Despite subsection (4), an affidavit under this section need not disclose anything that is prescribed for the purposes of this subsection.

### **Investigations of holders of licences and associates**

**90.(1)** At any time while a licence under this part is in force, the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to be satisfied that the holder of the licence, or any associate of the holder, is a suitable person to be a holder of a licence under this part or an associate of the holder.

(2) The chief executive may, either verbally or by written notice, require any person, to whom investigations under subsection (1) relate, to submit such information or material as the chief executive considers is necessary.

(3) The person must comply with the requirement of the chief executive under subsection (2).

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

### **Cessation or commencement of executive officer or secretary**

**91.** A licensed service contractor that is a body corporate must notify the chief executive in the approved form—

- (a) that a person has ceased to be the secretary or an executive officer of the body corporate; and
- (b) that a person has started as the secretary or an executive officer of the body corporate; and
- (c) the full name, address and date of birth of any person referred to in paragraph (b);

within 7 days of ceasing or starting.

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

### **Notifications re employment and agreements**

**92.(1)** In this section—

**“employer”** means a licensee, licensed repairer or licensed service contractor.

**(2)** An employer—

- (a) within 7 days of being granted the licence; and
- (b) each time application for renewal of the licence is made;

must notify the chief executive in the approved form of the names, and licence numbers under this Act, of all persons employed by the employer as licensed repairers at the time of making the notification.

Maximum penalty—40 penalty units.

**(3)** An employer within 7 days—

- (a) of starting to employ a person as a licensed repairer; or
- (b) of such a person ceasing to be employed by the employer as a licensed repairer;

must notify the chief executive in the form determined by the chief executive of the name, and licence number under this Act, of that person together with the names, and licence numbers under this Act, of all other persons employed by the employer as licensed repairers at the time of making the notification.

Maximum penalty—40 penalty units.

**(4)** An employer—

- (a) within 7 days of being granted the licence; and
- (b) each time application for renewal of the licence is made;

must notify the chief executive in the form determined by the chief executive of the name, and licence number under this Act, of all other persons with whom the employer has a service contract at the time of making the notification.

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Maximum penalty—40 penalty units.

(5) An employer within 7 days of the making, or termination, of a service contract must notify the chief executive in the form determined by the chief executive of the name, and licence number under this Act, of the other party to the service contract together with the name and licence numbers under this Act, of all other persons with whom the employer has service contracts at the time of making the notification.

Maximum penalty—40 penalty units.

(6) A licensee—

- (a) within 7 days of being granted the licence; and
- (b) each time application for renewal of the licence is made;

must notify the chief executive in the form determined by the chief executive of—

- (c) the names and licence numbers under this Act of all licensed machine managers who are employed under section 75(3) in respect of the licensee's licensed premises in question at the time of making the notification; and
- (d) the names of all persons who are applicants for a machine manager's licence, who are employed under section 75(4) in respect of the licensee's licensed premises in question at the time of making the notification.

Maximum penalty—40 penalty units.

(7) A licensee within 7 days of—

- (a) employing a licensed machine manager under section 75(3); or
- (b) any person ceasing to be employed by the licensee under section 75(3) or 75(4);

must notify the chief executive in the form determined by the chief executive of—

- (c) the name of that licensed machine manager or person and the licence number under this Act of that licensed machine manager; and
- (d) the name and licence number under this Act, of all other licensed

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machine managers who are employed under section 75(3) in respect of the licensee's licensed premises in question at the time of making the notification; and

- (e) the names of all other persons who are applicants for a machine manager's licence who are employed under section 75(4) in respect of the licensee's licensed premises in question at the time of making the notification.

Maximum penalty—40 penalty units.

**(8)** If it becomes known to an employer that a person employed by the employer as a licensed repairer is not a licensed repairer the employer must immediately terminate the employment of that person as a licensed repairer.

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

**(9)** If it becomes known to the chief executive or a licensee that a person with whom the chief executive or licensee has made a service contract is not a licensed repairer or licensed service contractor the chief executive or licensee must immediately terminate the service contract.

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

**(10)** If it becomes known to a licensed repairer or licensed service contractor that a person (other than the chief executive or a licensee) with whom the repairer or service contractor has made a service contract is not a licensed repairer or licensed service contractor the licensed repairer or licensed service contractor must immediately terminate the service contract.

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

**(11)** If it becomes known to a licensee that—

- (a) a person employed by the licensee under section 75(3) is not a licensed machine manager; or
- (b) the application of a person employed by the licensee under section 75(4) has been refused;

the licensee must immediately terminate the employment under section 75(3) or (4).

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

**(12)** The provisions of subsection (8), (9), (10) or (11) is sufficient authority to terminate the employment or service contract referred to in that

subsection, despite any other Act or law or any industrial award or agreement.

(13) No right of action arises against any person because of that termination.

### **Surrender of licences**

**93.(1)** The holder of a licence under this part, at any time, by forwarding to or lodging with the chief executive notification in the approved form, and the licence under this part, may surrender the licence.

(2) The notification is to be signed or executed in the same way as that specified for an application made under section 77(1)(b) or (c).

### **Cancellation or suspension of licences under this part**

**94.(1)** A ground for cancellation or suspension of a licence under this part arises if—

- (a) the holder of the licence—
  - (i) obtained the licence on false, erroneous or misleading information; or
  - (ii) fails to comply with any condition to which the licence is subject under section 84; or
  - (iii) fails to forward or lodge an affidavit in accordance with section 89(2); or
- (b) the holder of the licence or an associate of the holder—
  - (i) is convicted of an offence against this Act; or
  - (ii) fails to discharge the holder's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
  - (iii) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed under the

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Corporations Law; or

- (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
  - (v) is required to comply with any written direction given to the holder or associate by the commission or chief executive, and fails to comply with the direction; or
  - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the holder or associate is false, erroneous or misleading in a material particular; or
- (c) the chief executive—
- (i) considers that the holder of the licence or an associate of the holder is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a holder of a licence or to be an associate of the holder of a licence; or
  - (ii) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the chief executive is of the opinion that the recommendation under section 79(1) would have been that the licence be refused.

(2) If the chief executive is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the chief executive must issue to the holder of the licence a written notice to show cause why action should not be taken with respect to the licence under this section.

(3) The chief executive must issue a copy of the notice to any other person whom the chief executive considers has an interest in the licence.

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(4) The notice is to set out the grounds giving rise to its issue and is to specify a date, being not earlier than 21 days after such issue, on or before which cause is required to be shown.

(5) The notice is to be in such form and contain such matters as the chief executive thinks fit, subject to this section.

(6) Each person to whom the notice is issued may give a written answer to the chief executive at any time not later than the date specified in the notice in that respect.

(7) Any person to whom a copy notice is issued under subsection (3) may make such written submissions to the chief executive as the person thinks fit at any time not later than the date specified under subsection (4).

(8) The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (7) and, if the chief executive considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the chief executive is not to take any action or any further action in relation to the notice; or
- (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory but action to cancel or suspend the licence is not warranted, the chief executive may issue a letter of censure to the holder of the licence, censuring the holder of the licence in respect of any matter connected with or giving rise to the notice to show cause; or
- (c) answers given or submissions made in reply to or in respect of the notice are not satisfactory and further action is warranted or if no answers are given and no submissions are made, the chief executive may—
  - (i) by written notice give such directions to the holder of the licence as the chief executive considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice; or
  - (ii) recommend to the commission that the licence be cancelled or suspended.

(9) If a direction given by the chief executive under subsection (8)(c)(i) is

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not complied with within the time specified in the notice, the chief executive may recommend to the commission that the licence be cancelled or suspended.

**(10)** If the chief executive is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is not of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the chief executive may by letter censure the holder of the licence in respect of any matter connected with or giving rise to the ground.

**(11)** If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

**(12)** The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (11) and to such other information or material as the commission considers is relevant, may—

- (a) take no action with respect to the licence if the commission considers action is not warranted; or
- (b) cause a letter of censure to be issued to the holder of the licence in respect to any matter that the commission considers it proper to do so; or
- (c) by written notice give to the holder of the licence any direction that the commission considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice; or
- (d) cancel the licence or suspend the licence for such period as the commission thinks fit.

**(13)** If the commission cancels or suspends a licence, the chief executive must immediately give the applicant written notice of, and the reasons for, the cancellation or suspension.

**(14)** The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (13) or from another date specified in the notice.

**(15)** Upon receipt of a notice of cancellation under subsection (13), the

person to whom the notice is addressed must cause the licence to be delivered to the chief executive within 14 days.

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

(16) The commission, at any time, having regard to any recommendation of the chief executive in that regard, may—

- (a) cancel the suspension in respect of the unexpired period of suspension; or
- (b) reduce the period of suspension;

imposed under subsection (12)(d).

### **Suspension of licences pending decision under s 94**

95.(1) Where the commission, having regard to the advice of the chief executive, is of the opinion that any act, omission or other thing that constitutes a ground under section 94(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the commission may suspend a licence under this part until any action taken, or to be taken, under section 94 is finally determined.

(2) Where the commission suspends a licence under subsection (1), the chief executive—

- (a) must immediately give the holder of the licence written notice of, and the reasons for, the suspension; and
- (b) is not to take any action under section 94(8)(a), (b) or (c)(i) or (10) in respect of the licence without the approval of the commission.

(3) The suspension of a licence under this section takes effect from when the notice referred to in subsection (2) is given to the holder of the licence or the suspension of the licence is made known to the holder of the licence (whichever is the first to happen).

(4) Without prejudice to a suspension under subsection (1), where the commission suspends a licence under that subsection the chief executive is to take action under section 94 as if the chief executive had formed the

opinion referred to in section 94(2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

### **Effect of suspension of licence**

**96.** The suspension under section 94(12) or 95(1) of a licence under this part has the same effect as the cancellation of the licence but without prejudice to—

- (a) any penal or other liability incurred by the holder of the licence; or
- (b) the exercise of the powers of the commission or the powers or authorities of the chief executive or an inspector.

### **Provisional licences**

**97.(1)** The commission may grant to an applicant for a licence under this part a provisional licence if the commission considers that—

- (a) a decision in respect of the application may not be made for some time; and
- (b) the conduct of gaming may be prejudiced or disadvantaged if the applicant is not granted a provisional licence; and
- (c) the issue of the provisional licence will not prejudice or disadvantage gaming or the conduct of gaming.

**(2)** The commission may impose on a provisional licence such conditions as the commission considers are necessary in the public interest.

**(3)** Where the commission grants a provisional licence, the chief executive must issue the licence in the approved form and endorse on the licence any conditions imposed under subsection (2).

**(4)** A provisional licence remains in force until—

- (a) a repairer's licence, service contractor's licence, machine manager's or key monitoring employee's licence is granted and issued or the commission refuses to grant the licence; or
- (b) it is surrendered by its holder; or
- (c) it is cancelled by the commission.

(5) The commission, at any time, may cancel a provisional licence granted under subsection (1).

(6) No right of action arises against the commission or any other person because of a decision under subsection (5) in respect of the termination of employment or otherwise.

(7) A provisional licence while it remains in force and subject to conditions imposed under subsection (2) has the same effect as if it were a repairer's licence, service contractor's licence, machine manager's or key monitoring employee's licence.

## **PART 5—SUPERVISION AND MANAGEMENT OF GAMING**

### **Installation and storage of gaming machines by licensees**

**98.(1)** Subject to subsection (2), a licensee must install a gaming machine provided to the licensee under section 55 in a gaming machine area on the licensee's licensed premises.

(2) A licensee must cause any gaming machine that is provided to the licensee that is not installed in a gaming machine area to be stored in a room approved by the chief executive and secured in such way as is so approved.

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

(3) A licensee must not store a gaming machine for more than 1 month without the chief executive's written approval.

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

### **Licensee's register of gaming machines**

**98A.(1)** Each licensee must keep a register listing all gaming machines on the licensee's licensed premises.

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

(2) The register must be in the approved form and must show if each gaming machine—

- (a) is owned or leased by the licensee; and
- (b) is, or is not, connected to an electronic monitoring system.

**Gaming machines not to be played if not installed in gaming machine area**

**99.(1)** Subject to subsection (2), a person who plays or allows another person to play a gaming machine—

- (a) that is provided by the chief executive, a licensed operator or an approved financier to a licensee; and
- (b) that is not installed in a gaming machine area;

commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) Subsection (1) does not apply to a licensed repairer who plays a gaming machine—

- (a) that is provided to a licensee; and
- (b) that is not installed in a gaming machine area;

in the course of altering, adjusting, maintaining, repairing or testing the gaming machine.

(3) Where winnings become payable because of playing a gaming machine as authorised by subsection (2), those winnings remain the property of the licensee in question and are not payable to any person.

**Gaming equipment not to be an annoyance etc.**

**100.(1)** A licensee must not locate, or allow to be located, gaming equipment on the licensee's licensed premises in such a way as to be an annoyance due to the location of the gaming equipment, the noise generated by the operation of the equipment or for any other reason.

Maximum penalty—40 penalty units.

(2) A listed person or licensee must not allow any gaming equipment to

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convey or exhibit—

- (a) any false, misleading, rude or offensive message; or
- (b) excessive or unnecessary advertising by—
  - (i) any words, whether written or spoken; or
  - (ii) a pictorial representation or design; or
  - (iii) any other way.

Maximum penalty—40 penalty units.

**(3)** Other than as may be provided by the game of a gaming machine or any arrangement or system approved under section 149, a person must not—

- (a) do or omit to do anything on licensed premises that unfairly or unreasonably entices players to play a particular gaming machine in preference to others; or
- (b) conduct or allow to be conducted any promotional activity that entices a person to play or rewards a person for playing gaming machines unless the rewards or prizes provided by the activity are not related to a particular gaming machine a person must play in order to be entitled to the rewards or prizes.

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

**(4)** Where, in the opinion of an inspector, a contravention of this section is being or has been committed, the chief executive may, instead of instituting or authorising the institution of proceedings for an offence against subsection (1), (2) or (3), by written notice, direct the listed person, licensee or person—

- (a) to do or cease doing anything that constitutes the contravention; or
- (b) not to again do or omit to do anything that constituted the contravention.

**(5)** A listed person, licensee or person who fails to comply with a direction given under subsection (4) commits an offence against this Act.

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

**Installation of electronic monitoring systems**

**101.(1)** A licensee must not install or operate, or cause to be installed or operated, an electronic monitoring system or centralised credit system on the licensee's licensed premises—

- (a) without the chief executive's written approval; and
- (b) unless the system is installed by the chief executive or a licensed operator.

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

**(2)** The chief executive or a licensed operator may—

- (a) install on licensed premises an electronic monitoring system; and
- (b) modify or cause the modification of the system.

**(3)** A licensee must permit such works and actions, by the chief executive or a licensed operator or any person acting on behalf of the chief executive or a licensed operator, on any place under the control of the licensee as are necessary to facilitate the installation, alteration, adjustment, maintenance, repair or continued effective operation of an electronic monitoring system installed on the licensee's licensed premises under subsection (2).

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

**(4)** A licensee must, at the licensee's expense, provide—

- (a) locations, to the satisfaction of the chief executive or a licensed operator, for the installation of equipment connected with; and
- (b) any electricity or other operating requirements of;

an electronic monitoring system installed on the licensee's licensed premises under subsection (2).

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

**(5)** A licensee must, at the licensee's expense, provide the chief executive or a licensed operator, continuous, free and unfettered access to—

- (a) any data held in or available from; and
- (b) the operation of;

an electronic monitoring system approved under subsection (1) or installed

under subsection (2).

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

### **Basic monitoring fees**

**101A.** If a licensed operator supplies basic monitoring services to a licensee, the licensed operator must not charge the licensee more than the basic monitoring fee prescribed under a regulation for supplying basic monitoring services.

### **Maintenance of facilities etc.**

**102.(1)** A licensee must—

- (a) ensure that the operation of gaming machines on the licensee's licensed premises is conducted in such way as, in the opinion of the chief executive, is proper and competent; and
- (b) ensure that anything forming part of a gaming machine that is visible without opening the machine is maintained in good order and is not defaced or altered in any way; and
- (c) maintain all facilities and amenities on the licensee's licensed premises that are related to gaming in such condition as will provide maximum safety and comfort for persons on the premises; and
- (d) ensure that all installations, equipment and procedures for security and safety purposes are used, operated and applied for the preservation and maintenance of those purposes.

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

**(2)** A licensee must not—

- (a) employ or allow; or
- (b) cause or allow any other person to employ or allow;

any barker or shill to entice any person to play gaming machines on the licensee's licensed premises.

Maximum penalty—40 penalty units.

**Hours of gaming**

**103.** A licensee must not conduct gaming, or allow gaming to be conducted, in any part of the licensee's licensed premises—

- (a) when, under the liquor licence relating to the premises, liquor is not permitted to be consumed in the part of the premises; or
- (b) when the licensee or an employee of the licensee is not in the part of the premises to supervise gaming; or
- (c) during a period prescribed for the purposes of this section.

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

**Rules ancillary to gaming**

**104.(1)** Activities ancillary to gaming are subject to rules known as rules ancillary to gaming.

**(2)** The rules ancillary to gaming for licensed premises are—

- (a) such rules ancillary to gaming as are prescribed; or
- (b) those rules as amended, added to, repealed or substituted under subsection (3).

**(3)** The chief executive may and a licensee, with the approval of the chief executive, in respect of the licensee's licensed premises, may—

- (a) amend, add to or repeal; or
- (b) substitute a rule or other rules for;

a rule or the rules prescribed under subsection (2) or such rules as amended or added to, or any rule or rules substituted for the rule or rules, under this subsection.

**(4)** If the chief executive takes action under subsection (3) (other than by way of approval), the chief executive by written notice, must advise the licensee accordingly.

**(5)** Any amendment, addition, repeal or substitution made under subsection (3) takes effect from the date specified for the purpose in the chief executive's written notice or approval.

**(6)** If the Governor in Council repeals all the rules ancillary to gaming

and substitutes fresh rules, any notice or approval given under subsection (3) that is in force is revoked.

### **Rules ancillary to gaming to be displayed and enforced**

**105.** A licensee, when gaming is being conducted on the licensee's licensed premises, must cause the rules ancillary to gaming that are, at that time, the rules for the licensed premises—

- (a) to be prominently displayed at each place on the licensed premises where the sale or redemption of gaming tokens or any centralised credit transaction is carried out; and
- (b) to be enforced.

Maximum penalty—40 penalty units.

### **Licensees not to extend credit**

**106.** A licensee must not make a loan or extend credit in any form, to any person to enable that person or any other person to play a gaming machine on the licensee's licensed premises.

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

### **Gaming tokens**

**107.(1)** A licensee in conducting gaming on the licensee's licensed premises must only use gaming tokens.

(2) A licensee must cause all transactions, in respect of the sale or redemption of gaming tokens on the licensee's licensed premises, to be carried out in such way as ensures the integrity of the transactions.

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

### **Gaming tokens that are not Australian currency**

**108.(1)** This section does not apply to a gaming token that—

- (a) has no value marked on the gaming token; and
- (b) forms part of a centralised credit system approved under

section 101(1).

(2) Where a person is a licensee who conducts gaming by the use of gaming tokens that are not Australian currency, that person, at all reasonable times, must—

- (a) during the time the person is a licensee; and
- (b) for 1 year after the person ceases to be a licensee;

redeem the gaming token for the value that is marked on the gaming token.

(3) A licensee must not sell for the purpose of gaming any gaming token that is not Australian currency unless—

- (a) the gaming token is approved by the chief executive for use on the licensee's licensed premises; and
- (b) the value (in Australian currency) that the gaming token represents for the purpose of gaming on the licensee's licensed premises is approved by the chief executive; and
- (c) the gaming token is of the physical characteristics approved by the chief executive; and
- (d) there is marked on the gaming token, in such a way as is approved by the chief executive—
  - (i) the value approved under paragraph (b); and
  - (ii) the name of the licensee or a symbol, approved by the chief executive, that clearly identifies the licensee from all other licensees; and
  - (iii) the name of the licensed premises or a symbol, approved by the chief executive, that clearly identifies the licensed premises from all other licensed premises; and
- (e) the gaming token is in good condition.

(4) Before placing an order to purchase gaming tokens that are not Australian currency with a manufacturer of gaming tokens, a licensee must obtain from the chief executive approval for the purchase of the gaming tokens.

(5) A manufacturer of gaming tokens must not accept an order to manufacture, or manufacture, gaming tokens that are not Australian

currency unless there is produced to the manufacturer an approval given under subsection (4) in respect of the gaming tokens.

(6) A licensee, except in the genuine redemption of gaming tokens, must not purchase gaming tokens that are not Australian currency from any person who is not a manufacturer of gaming tokens approved by the chief executive.

(7) A licensee must keep, and at all times accurately maintain, a written inventory of gaming tokens that are not Australian currency purchased from a manufacturer of gaming tokens.

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

### **Payments in connection with gaming**

**109.(1)** A licensee must make a payment in connection with—

- (a) the payment of winnings or gaming machine credits (other than payments made by a gaming machine); or
- (b) the redemption of gaming tokens;

with Australian currency unless the payment—

- (c) is required to be made in another way—
  - (i) that is prescribed; or
  - (ii) in accordance with the rules for the licensee's licensed premises required to be displayed and enforced under section 105; or
- (d) is to be made under subsection (2).

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

(2) A licensee, if requested by a person entitled to a payment referred to in subsection (1) (other than a payment to which subsection (1)(c) applies) and if the licensee thinks fit to do so, may make the payment by—

- (a) gaming tokens (other than Australian currency); or
- (b) a cheque; or
- (c) a combination of Australian currency, gaming tokens (other than Australian currency) and a cheque.

**Entitlement of players**

**110.** A licensee must ensure that a person who plays a gaming machine installed on the licensee's licensed premises is paid (whether by way of gaming tokens (other than Australian currency), Australian currency or cheque) the amount to which the person is entitled calculated in the way prescribed.

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

**Malfunction of gaming machines**

**111.(1)** A machine manager may refuse—

- (a) to make payment; or
- (b) to allow payment to be made;

to a person in respect of a bet made, or gaming machine credits accumulated, on a gaming machine installed on licensed premises in respect of which he or she is machine manager, where the machine manager is satisfied that the gaming machine failed to function in the way in which it was designed and programmed to function.

**(2)** Subsection (1) applies irrespective of the reason for the failure of the gaming machine to function in the way in which it was designed and programmed to function.

**(3)** A machine manager who refuses to make or allow payment under subsection (1) must—

- (a) not allow, other than for testing purposes, the gaming machine to be played until it is functioning in the way in which it was designed and programmed to function; and
- (b) as soon as practicable forward to the chief executive a report in the approved form in respect of the refusal; and
- (c) give the licensee a copy of the report referred to in paragraph (b).

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

**(4)** A licensee—

- (a) may, on review of the copy of the report referred to in subsection (3); or

(b) must, if so directed by the chief executive;

overrule a refusal referred to in subsection (1) and make the payment that has been refused.

Maximum penalty for subsection (4)(b)—200 penalty units or 1 year's imprisonment.

(5) Nothing in this section operates so as to prejudice or affect any other right or remedy of any person.

### **Defective gaming machines not allowed**

**112.(1)** In this section—

“licensee” includes—

- (a) a machine manager in respect of the licensed premises in question; and
- (b) if the licensee is a body corporate—the secretary or any executive officer of the body corporate; and
- (c) any person employed by the licensee who may be required by the licensee to—
  - (i) supervise gaming; or
  - (ii) attend to gaming machines; or
  - (iii) sell or redeem gaming tokens; or
  - (iv) carry out centralised credit transactions;on the licensee's licensed premises in question.

(2) A licensee must not allow, other than for testing purposes, a gaming machine—

- (a) that is installed on the licensee's licensed premises; and
- (b) that does not function in the way in which it was designed and programmed to function;

to be played until it is functioning in the way in which it was designed and programmed to function.

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

(3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the defendant—

- (a) had taken all reasonable precautions to ensure that the gaming machine was functioning in the way in which it was designed and programmed to function; and
- (b) at the time of the alleged offence did not know, and ought not to have known, that the gaming machine was not functioning in the way in which it was designed and programmed to function.

### **Security of keys etc.**

**113.(1)** A licensee must ensure that all keys and other devices related to the security of gaming equipment on the licensee's licensed premises are kept, stored, secured, possessed and used in accordance with requirements prescribed in relation to the keys or other devices.

(2) A person must not possess or use any key or other device referred to in subsection (1) unless the possession or use is—

- (a) permitted by; and
- (b) in accordance with;

requirements prescribed in relation to the key or other device.

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

### **Certain persons only to have access etc. to gaming machines**

**114.** A person must not, in relation to a gaming machine on licensed premises—

- (a) open the gaming machine; or
- (b) check gaming tokens contained inside the gaming machine; or
- (c) remove gaming tokens from the cabinet or drop box of the gaming machine; or
- (d) place gaming tokens into the gaming machine (other than for the purpose of playing a game upon the gaming machine);

unless the person is—

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- (e) the licensee of the licensed premises; or
- (f) where the licensee is a body corporate—the secretary or executive officer of the body corporate in the genuine execution of the duties of such secretary or executive officer; or
- (g) a machine manager in respect of the licensed premises; or
- (h) an employee of the licensee who is employed wholly or in part to attend to gaming machines; or
- (i) an employee of the licensee who is assisting in carrying out money clearances; or
- (j) a licensed repairer in the performance of duties as a licensed repairer; or
- (k) performing duties under a contract approved under section 115(1); or
- (l) an inspector in the performance of functions under this Act.

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

**Contracts for certain services to be approved**

**115.(1)** Subject to subsection (2), a licensee, any person acting on behalf of a licensee or any other person must not, without the approval of the commission, enter into any agreement for the provision of any service in relation to—

- (a) the sale and redemption of gaming tokens on the licensee’s licensed premises; or
- (b) the supervision of gaming on the licensee’s licensed premises; or
- (c) attending to gaming machines or carrying out centralised credit transactions on the licensee’s licensed premises; or
- (d) carrying out on the licensee’s licensed premises—
  - (i) money clearances; or
  - (ii) any function resulting from money clearances; or
  - (iii) any function, required to be carried out under section 156(2) or 157(2); or

- (e) keeping and maintaining accounts under section 158; or
- (f) making monthly gaming machine reconciliation reports under section 159; or
- (g) any other function prescribed to be a function to which this section applies.

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

(2) Subsection (1) does not apply to—

- (a) the employment of an individual by a licensee to carry out, on the licensee's licensed premises, a service mentioned in subsection (1); or
- (b) an agreement between a licensee and a licensed operator for electronically monitoring the licensee's gaming machines in conjunction with supplying a service mentioned in subsection (1).

### **Licenses to keep records of certain employees**

**116.(1)** A licensee in respect of each of the licensee's licensed premises must keep, and at all times accurately maintain, records in respect of the full name, address and date of birth of all persons (other than machine managers employed in respect of the licensed premises in question) employed by the licensee to—

- (a) supervise gaming; and
- (b) attend to gaming machines or carry out centralised credit transactions; and
- (c) carry out—
  - (i) money clearances; or
  - (ii) any function resulting from money clearances; or
  - (iii) any function required by this Act to be carried out in conjunction with a money clearance; and
- (d) carry out any other function that is prescribed as being a function to which this section applies;

on the licensed premises in question.

(2) A licensee, in respect of each of the licensee's licensed premises, must lodge with the chief executive on or before the day prescribed of each month a report in the approved form, details of the full name, address and date of birth of all persons who performed any act referred to in subsection (1) at any time during the preceding month on the licensed premises.

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

### **Minors cannot be employed**

**117.** A licensee must not employ a minor in any capacity in relation to the operation of gaming machines.

Maximum penalty—250 penalty units.

### **Minors cannot play gaming machines**

**118.** A minor must not play a gaming machine on licensed premises.

Maximum penalty—25 penalty units.

### **Minors cannot be allowed to game**

**119.(1)** A person must not allow a minor to play a gaming machine on licensed premises.

(2) A person who contravenes subsection (1) commits an offence punishable on conviction by a maximum penalty of a fine of—

- (a) if the person is the licensee or a machine manager of the premises—250 penalty units;
- (b) in any other case—40 penalty units.

### **False representation of age**

**120.(1)** A person must not falsely represent himself or herself to have attained 18 years with the intent of playing a gaming machine.

Maximum penalty—25 penalty units.

(2) A person must not—

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- (a) make a false document that could reasonably be taken to be genuine acceptable evidence of age for the purposes of this Act; or
- (b) give such a false document to another person;

knowing the document to be false and with intent that the document be used as acceptable evidence of age for the purposes of this Act.

Maximum penalty—

- (a) in the case of a minor—25 penalty units; and
- (b) in the case of an adult—40 penalty units.

**Wrongful dealing with genuine evidence of age**

**121.(1)** A person must not knowingly give a document that is evidence of age of the person mentioned in the document (the “**specified person**”) to someone else, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

- (a) as evidence of age for this Act of someone other than the specified person; or
- (b) to obtain a document that is acceptable evidence of age for this Act of someone other than the specified person.

Maximum penalty—40 penalty units.

**(2)** A person must not wilfully or negligently deface or interfere with a document that is, for the purposes of this Act, acceptable evidence of age of the person or another person.

Maximum penalty—40 penalty units.

**Seizure of document wrongly used as evidence of age**

**122.(1)** If a contravention of section 120 consists in production of—

- (a) a genuine document that is, for the purposes of this Act, acceptable evidence of age of the person specified in the document; or
- (b) a false document that could reasonably be taken, for the purposes

of this Act, to be genuine acceptable evidence of age;  
the person to whom the document is produced must seize and confiscate the document and give it to an inspector or a police officer.

Maximum penalty—25 penalty units.

(2) A person does not commit an offence by contravening subsection (1) if the person is not aware of the falsity of the representation as to age made by producing the document.

### **Ascertainment of age**

**123.(1)** For the purposes of this Act, an authorised person may, on licensed premises, require another person whom the authorised person suspects on reasonable grounds to be a minor and to be contravening a provision of this Act—

- (a) to state all relevant particulars concerning the other person's age; and
- (b) to produce evidence of the other person's age.

(2) If a person required under subsection (1) refuses to state particulars, or to produce evidence, as to age the authorised person must prohibit the suspected minor from playing gaming machines on the licensed premises.

(3) In this section—

**“authorised person”** includes—

- (a) the licensee of the licensed premises; and
- (b) a machine manager of the licensed premises; and
- (c) an employee of the licensee of the licensed premises; and
- (d) an inspector; and
- (e) a police officer.

### **Seizure of material associated with representation of age**

**124.** If an inspector or a police officer reasonably believes or suspects that a person—

- (a) has made, or caused to be made, a false document in

contravention of section 120(2)(a); or

- (b) is in possession of a document given to the person in contravention of section 120(2)(b) or 121(1); or
- (c) is in possession of a document defaced or interfered with in contravention of section 121(2);

the inspector or police officer may seize and confiscate—

- (d) in the case specified in paragraph (a)—
  - (i) all documents made in contravention of section 120(2)(a) in the person's possession; and
  - (ii) all equipment and materials in the person's possession reasonably suspected by the inspector or officer to have been used, or to be intended for use, in contravening section 121(2)(a); or
- (e) in the case specified in paragraph (b) or (c)—the document in respect of which section 120(2)(b) or 121(1) or (2) appears to have been contravened.

### **Defence to charge if age material**

**125.(1)** If the age of a person is material to a charge of an offence against this Act, it is a defence to prove that, at the time of the offence, the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender)—

- (a) honestly and reasonably believed that the person whose age is material to the offence had attained 18 years; or
- (b) had sighted acceptable evidence of age of the person whose age is material to the offence that indicated the person had attained 18 years;

and the operation of the Criminal Code, section 24 is excluded.

**(2)** Evidence that the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender) did not request the person whose age is material to the offence to produce acceptable evidence of age is

evidence that any belief that the person had attained 18 years was not reasonable.

### **Licensees to prohibit certain persons from gaming**

**126.** Where there are reasonable grounds for a licensee to believe that the peace and happiness of a person's family are endangered due to excessive playing of gaming machines by the person, the licensee must prohibit the person from playing gaming machines on the licensee's licensed premises for 1 month from the date of prohibition.

### **Removal of certain persons**

**127.(1)** A licensee may cause a person to be removed from, or refuse to allow a person to enter, the licensee's licensed premises if the person—

- (a) breaches the rules for the licensed premises required to be displayed and enforced under section 105; or
- (b) damages or physically abuses a gaming machine; or
- (c) behaves in a way likely to cause offence to other persons; or
- (d) is suspected on reasonable grounds of being on the premises for the purpose of committing an offence or aiding another person to commit an offence against this Act.

**(2)** A licensee must cause to be removed from the licensee's licensed premises a person who is prohibited under section 123(2) or 126 from playing gaming machines on the premises if the person plays, or induces another person to play, a gaming machine on behalf of the first person.

Maximum penalty—250 penalty units.

**(3)** A licensee, or other person acting for a licensee, may use such force and assistance as are necessary and reasonable in removing a person from, or preventing a person from entering, the licensee's licensed premises under subsection (1) or (2).

### **Obstruction to removal from licensed premises**

**128.** If a person is seeking under section 127(1) or (2) to remove a

person from licensed premises, the person whose removal is sought must not—

- (a) refuse to leave the premises when required by the first person; or
- (b) resist the first person.

Maximum penalty—25 penalty units.

### **Obstruction generally**

**129.** A person must not obstruct or hinder a licensee, machine manager or any other employee of a licensee in the exercise of a power or performance of a function under this Act.

Maximum penalty—100 penalty units.

## **PART 6—CONTROL OF GAMING MACHINES**

### **Recognised manufacturers and suppliers of gaming machines**

**130.(1)** The chief executive must cause to be maintained in the division a roll of recognised manufacturers and suppliers of gaming machines.

**(2)** Subject to section 134, the chief executive must cause to be listed on the roll of recognised manufacturers and suppliers of gaming machines the name of any tenderer under section 144 who the chief executive considers complies with this Act.

### **Recognised suppliers of restricted components**

**131.(1)** The chief executive must cause to be maintained in the division a roll of recognised suppliers of restricted components.

**(2)** A recognised manufacturer or supplier of gaming machines, before the purchase of restricted components from a person who is not a listed person, must notify the chief executive in writing of the full and correct name and business address of the person.

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

(3) A person who intends to operate a genuine business as a supplier of restricted components must notify the chief executive in writing.

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

(4) Subject to section 134, the chief executive must cause the name of a person who is the subject of a notification under subsection (2) or (3) to be listed on the roll of recognised suppliers of restricted components.

### **Application for removal from a roll under this part**

**132.(1)** A listed person may make application in writing to the chief executive for removal of the person's name from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components.

(2) The chief executive may grant or refuse to grant an application made under subsection (1).

(3) The chief executive, if an application under subsection (1) is granted, must cause the name of the applicant to be removed from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components.

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

**133.(1)** At any time the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to satisfy the commission that a listed person or any associate of the listed person is a suitable person to be a listed person or an associate of the listed person.

(2) The chief executive, either verbally or by written notice, may require any person, to whom investigations under subsection (1) relate, to submit such information or material as the chief executive considers is necessary.

(3) The person must comply with the requirement of the chief executive under subsection (2).

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

**Commission may order removal of names of persons from a roll under this part**

**134.(1)** The commission may order the chief executive to remove the name of a listed person from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components—

- (a) if the listed person or an associate of the listed person—
  - (i) is convicted of an offence against this Act; or
  - (ii) fails to discharge the listed person's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
  - (iii) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed under the Corporations Law; or
  - (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
  - (v) is required to comply with any written direction given to the listed person or associate by the commission or the chief executive, and refuses or fails to comply with the direction and the commission is of the opinion that the refusal or failure jeopardises the integrity of gaming or the conduct of gaming or adversely affects the public interest; or
  - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material, or supplies information or material that to the knowledge of the listed person or associate is false, erroneous or misleading in a material particular; or
- (b) if at any time the commission considers that the listed person or

an associate of the listed person is not a fit and proper person to continue to be a listed person or an associate of the listed person.

(2) Where the commission orders the chief executive to remove the name of a person from a roll under this part, the chief executive must remove the name of the person from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components and immediately give the person written notice of, and the reasons for, the removal.

(3) A person whose name has been removed under section 132 or this section from a roll under this part must not again be listed on a roll under this part without the approval of the commission.

(4) If the commission refuses to approve that the name of a person whose name has been removed under this section or section 132 from a roll under this part be again listed, the chief executive must immediately give the person written notice of, and the reasons for, the refusal.

### **Manufacture, sale, supply, obtaining or possession of gaming machines**

**135.(1)** A person must not manufacture, sell, supply, obtain or be in possession of—

- (a) a gaming machine; or
- (b) a linked jackpot arrangement; or
- (c) a device capable of being represented as being a gaming machine or linked jackpot arrangement;

except under and in accordance with the authority of a licence or any other authorisation under this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(1A) A licensed operator, approved financier, licensee or a gaming trainer may, with the chief executive's written approval, buy a gaming machine from the chief executive or a recognised manufacturer or supplier of gaming machines.

(1B) However, if a gaming machine was last used, or is being used, by a licensee for the conduct of gaming or by a gaming trainer for conducting a

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genuine training course relating to the conduct of gaming and the owner of the machine is a licensed operator, approved financier, licensee or a gaming trainer, the operator, financier, licensee or trainer may, with the approval of the chief executive, sell the machine to a licensed operator, approved financier, licensee, licensed service contractor, licensed repairer or gaming trainer.

**(1C)** The purchase of a gaming machine under subsection (1A) or the sale of a gaming machine under subsection (1B) may be only for the purpose of—

- (a) if the buyer is a licensed operator—selling, or owning and leasing, the machine to a licensee for the conduct of gaming or a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
- (b) if the buyer is an approved financier—owning and leasing the machine to a licensee for the conduct of gaming or a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
- (c) if the buyer is a licensee—owning the machine for the conduct of gaming; or
- (d) if the buyer is a licensed service contractor or licensed repairer—owning the machine for the purpose of using it for spare parts; or
- (e) if the buyer is a gaming trainer—owning the machine for conducting a genuine training course relating to the conduct of gaming.

**(1D)** To remove any doubt, it is declared that a licensee and a gaming trainer cannot lease a gaming machine to another person.

**(2)** A person must not manufacture, sell, supply, obtain or be in possession of a restricted component except under and in accordance with the authority of a licence or any other authorisation under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**(3)** It is a defence to a prosecution for an offence against subsection (2), for the defendant to prove that—

- (a) the manufacturing, selling, supplying, obtaining or possession of

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a restricted component was not related to the manufacture, assembly, installation, alteration, operation, use, adjustment, maintenance or repair of gaming equipment; and

- (b) the restricted component was not intended to be used to interfere with the normal operation of gaming equipment.

(4) Despite any other Act or law, the possession of anything referred to in subsection (1) or (2) in accordance with the authority of a licence or any other authorisation under this Act is lawful.

(5) This Act does not apply so as to affect the lawful obtaining, possession or use of anything referred to in subsection (1) or (2) by a licensed casino operator in accordance with the *Casino Control Act 1982*.

(6) The authority of a licence or any other authorisation under this Act is—

- (a) subject to this Act; and
- (b) taken to extend to a person in the genuine employ of the holder of such licence or authorisation to such extent as is necessary for the employee to carry out the duties of the employee on behalf of the holder.

(7) For the purposes of this section and sections 136 to 142—

**“gaming machine”** includes any incomplete device that was a gaming machine or that is, or was, intended to be made into a gaming machine and to which there is affixed an identification plate with the manufacturer’s serial number displayed on the plate.

**Possession etc. of gaming machines and restricted components by recognised manufacturers or suppliers of gaming machines**

**136.(1)** A recognised manufacturer or supplier of gaming machines is authorised to—

- (a) manufacture, obtain and be in possession of gaming machines, linked jackpot arrangements and restricted components; and
- (b) sell or supply, on written order—
  - (i) gaming machines or linked jackpot arrangements to the chief executive or a recognised manufacturer or supplier of

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gaming machines; and

- (ia) gaming machines, with the chief executive's written approval, to a licensed operator, an approved financier, a licensee or a gaming trainer; and
- (ii) restricted components to a person authorised under this Act to obtain and be in possession of the restricted components; and
- (c) sell or supply, on written order, gaming machines, linked jackpot arrangements or restricted components to a person in another State or a Territory or a country where possession of such gaming machines, linked jackpot arrangements or restricted components by that person is lawful; and
- (d) sell or supply gaming machines, linked jackpot arrangements or restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.

**(2)** A recognised manufacturer or supplier of gaming machines must not use any premises for the manufacture, assembly, storage or handling of gaming machines, linked jackpot arrangements or restricted components unless the premises are approved by the chief executive for the purpose.

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

**(3)** A recognised manufacturer or supplier of gaming machines must not manufacture, obtain or be in possession of gaming machines or restricted components unless such manufacturing, obtaining or possession is for the purpose of—

- (a) the submission for evaluation by the chief executive of a particular device; or
- (b) an action authorised under subsection (1)(b), (c) or (d); or
- (c) conducting genuine testing or development work; or
- (d) conducting, at premises approved by the chief executive for the purpose, a genuine training course for licensed repairers or applicants for a repairer's licence on the installation, alteration, adjustment, maintenance or repair of gaming equipment.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(4) A recognised manufacturer or supplier of gaming machines must, within 1 day of the—

- (a) manufacture or assembly; or
- (b) disassembly or destruction;

of a gaming machine, advise the chief executive in the form determined by the chief executive of the manufacturer's serial number of the gaming machine.

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

### **Possession etc. of restricted components by recognised suppliers of restricted components**

**137.(1)** A recognised supplier of restricted components is authorised to—

- (a) manufacture, obtain and be in possession of restricted components; and
- (b) sell or supply, on written order, restricted components to a person authorised under this Act to obtain and be in possession of such restricted components; and
- (c) sell or supply, on written order, restricted components to a person in another State or a Territory or a country where possession of such restricted components by that person is lawful; and
- (d) sell or supply restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.

(2) A recognised supplier of restricted components must not manufacture, obtain or be in possession of a restricted component unless such manufacturing, obtaining or possession is for the purpose of—

- (a) the submission for evaluation by the chief executive of a particular device; or
- (b) an action authorised under subsection (1)(b), (c) or (d); or
- (c) conducting genuine testing or development work; or
- (d) conducting, at premises approved by the chief executive for the purpose, a genuine training course for licensed repairers or

applicants for repairer's licences on the use of restricted components.

Maximum penalty for subsection (2)—400 penalty units or 2 years imprisonment.

### **Possession etc. of gaming machines and restricted components by licensed repairers**

**138.** A licensed repairer is authorised to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed repairer; and
- (b) supply restricted components to a licensed repairer employed by him or her as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and
- (d) be in possession of a gaming machine or linked jackpot arrangement to the extent necessary to install, repair, remove or reinstate the machine or arrangement; and
- (e) be in possession of a linked jackpot arrangement, or with the chief executive's written approval, a gaming machine for the purpose of using the arrangement or machine for spare parts.

### **Possession etc. of restricted components by licensed service contractors**

**139.** A licensed service contractor is authorised to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed service contractor; and
- (b) supply restricted components to a licensed repairer employed by the licensed service contractor as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and

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- (d) be in possession of a gaming machine or linked jackpot arrangement to the extent necessary to install, repair, remove or reinstate the machine or arrangement; and
- (e) be in possession of a linked jackpot arrangement, or with the chief executive's written approval, a gaming machine, for the purpose of using the arrangement or machine for spare parts.

**Possession etc. of gaming machines and restricted components by licensees**

**140.(1)** A licensee is authorised to—

- (a) be in possession of gaming machines and linked jackpot arrangements, on the licensee's licensed premises, that are provided to the licensee by the chief executive, a licensed operator or an approved financier; and
- (b) obtain and be in possession of restricted components, on the licensee's licensed premises, to such extent as is necessary for the efficient conduct of gaming on the licensed premises; and
- (c) supply restricted components to—
  - (i) a licensed repairer employed by the licensee as a licensed repairer; or
  - (ii) a person authorised under section 141(1) to have the restricted components; or
  - (iii) another licensee.

**(2)** A licensee must not, on the licensee's licensed premises, be in possession of, or allow a person to play—

- (a) a gaming machine that is not provided to the licensee by the chief executive, a licensed operator or an approved financier for gaming on the licensed premises; or
- (b) a gaming machine that is not in accordance with the game, gaming token denomination or betting unit of the gaming machine as provided by the chief executive, a licensed operator or an approved financier or, if the gaming machine has been altered under section 55(2), the game, gaming token denomination or

betting unit as last altered under that subsection.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(3) If a licensee's gaming machine licence is suspended, the licensee may, during the suspension, be in possession of gaming machines and restricted components supplied to the licensee under this section.

### **Possession etc. of gaming machines etc. by other persons**

**141.(1)** A person who carries out any installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of section 73(3), is authorised to obtain and be in possession of restricted components to such extent as is necessary to carry out such installation, alteration, adjustment, maintenance or repair.

(2) A carrier who is hired, by a person authorised to manufacture, sell, supply, obtain or be in possession of gaming machines, linked jackpot arrangements or restricted components, for the purpose of transporting the gaming machines, linked jackpot arrangements or restricted components is authorised to have possession of the gaming machines, linked jackpot arrangements or restricted components to such extent as is necessary for the purpose of that transportation.

(3) A gaming trainer is authorised to be in possession of gaming machines, linked jackpot arrangements and restricted components subject to—

- (a) such gaming machines, linked jackpot arrangements and restricted components being provided by the chief executive, a licensed operator or an approved financier; and
- (b) compliance with all conditions (including the payment of fees) as may be imposed by the chief executive.

(4) The chief executive, an inspector or other officer of the division and a police officer are authorised to obtain and be in possession of gaming machines, linked jackpot arrangements, restricted components and devices capable of being represented as being gaming machines or linked jackpot arrangements obtained by them in the course of their duties and to do such acts with those things as may be necessary for the performance of their functions under this Act.

(5) A person if so authorised by the chief executive may manufacture, obtain, be in possession of or use (other than for gaming or the conduct of gaming) a gaming machine, linked jackpot arrangement, restricted component or device capable of being represented as being a gaming machine or linked jackpot arrangement.

### **Gaming equipment not to be encumbered**

**141A.(1)** An encumbrance over gaming equipment is of no effect.

(2) Subsection (1) does not apply to an encumbrance given by—

- (a) a licensed operator to an approved financier; or
- (b) a licensee or gaming trainer to a licensed operator or approved financier.

### **Repossession of gaming machines**

**141B.** A licensed operator or approved financier must not repossess a gaming machine without first obtaining the chief executive's written approval.

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

### **Storage of gaming machines by operators and financiers**

**141C.(1)** Each licensed operator and approved financier must keep all gaming machines in the possession of the operator or financier stored on premises, and in a way, approved by the chief executive.

(2) A licensed operator must not store a gaming machine for more than 1 year without the chief executive's written approval.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

(3) An approved financier must not store a gaming machine for more than 1 month without the chief executive's written approval.

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

(4) The chief executive may, within the period mentioned in subsection (2) or (3), extend the period.

### **Operator's and financier's registers of gaming machines**

**141D.(1)** Each licensed operator and approved financier must keep a register listing all gaming machines owned, leased or monitored by the operator or owned or leased by the financier.

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

(2) The register must be in the approved form and must show if a gaming machine—

- (a) is owned, leased or monitored by the operator or is owned or leased by the financier; and
- (b) is, or is not, connected to an electronic monitoring system.

### **Consignment or movement of gaming machines**

**142.(1)** A recognised manufacturer or supplier of gaming machines must advise the chief executive, in the approved form, at least 3 days before gaming machines are moved by, or on behalf of, the recognised manufacturer or supplier of gaming machines—

- (a) to or from any premises approved under section 136(2); or
- (b) to any place within Queensland from outside Queensland.

(2) An advice under subsection (1) must include—

- (a) the number of gaming machines; and
- (b) the gaming machine type and manufacturer's serial number of each of the gaming machines; and
- (c) the origin and destination of the gaming machines; and
- (d) the intended dates of transport; and
- (e) the way the gaming machines are to be transported; and
- (f) the name of the carrier; and

(g) such other particulars as are specified in the form.

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

### **Destruction of gaming machines**

**142A.** A licensed operator, approved financier, licensee or gaming trainer must not, without the chief executive's written approval, destroy a gaming machine.

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

### **Purchase of gaming machines etc.**

**143.(1)** Subject to this Act and the *Financial Administration and Audit Act 1977* the chief executive is authorised to—

- (a) cause expressions of interest to be called from persons interested in supplying gaming machines through subsequent invitations of tender; and
- (b) cause tenders to be called for the supply of gaming machines; and
- (c) purchase gaming machines under a determination by the Governor in Council under section 145(10); and
- (d) purchase, lease, rent or otherwise obtain—
  - (i) restricted components, gaming equipment (other than gaming machines) and ancillary or related items; and
  - (ii) gaming equipment, restricted components and ancillary or related items for the purpose of providing such equipment, components and items under paragraph (e)(ii); and
- (e) provide—
  - (i) gaming machines, linked jackpot arrangements and linked jackpot equipment to a licensee; and
  - (ii) gaming machines, linked jackpot arrangements and restricted components to a person conducting a genuine training course relating to the conduct of gaming; and

- (f) sell restricted components to a person authorised under this Act to obtain and be in possession of the restricted components; and
- (g) sell gaming equipment (other than gaming machines or linked jackpot arrangements) and ancillary or related items; and
- (h) contract for the service and maintenance of gaming equipment and ancillary or related items that are the property of the Crown; and
- (i) for the purpose of disposing of obsolete devices, sell gaming machines and linked jackpot arrangements to a person authorised to obtain and be in possession of gaming machines and linked jackpot arrangements.

(2) If the chief executive causes expressions of interest to be called under subsection (1)(a), any expressions of interest submitted are to be taken for the purposes of section 144(2) and (3) and section 145(1) to (6) to be tenders submitted in response to a call under section 144(1) and those sections apply to the expressions of interest accordingly.

(3) The chief executive is hereby authorised, before the commencement of this section, to cause expressions of interest to be called under subsection (1)(a) and tenders to be called under subsection (1)(b).

(4) If the chief executive under subsection (3) causes tenders to be called, then any tenders submitted are taken for the purposes of section 144(2) and (3) and section 145 to be tenders submitted in response to a call under section 144(1) and those sections apply to the tenders accordingly.

(5) For the purpose of that application, those sections are taken to have commenced on the date of the calling of the tenders under subsection (3).

### **Submission of tenders for supply of gaming machines**

**144.(1)** At any time the chief executive may cause tenders to be called for the supply of gaming machines.

(2) A tender submitted for evaluation, in response to a call referred to in subsection (1), must—

- (a) be in accordance with any specifications and conditions contained in the tender documents as issued by the chief executive; and

- (b) contain or be accompanied by such information, records, reports, documents and writings relating to the tender and tenderer as are specified in the tender documents.

(3) The chief executive may limit a tender to gaming machine types and games approved by the chief executive.

### **Procedure for determination of tenders**

**145.(1)** Subject to subsection (2), as soon as practicable after the close of tenders called under section 144(1), the chief executive must in relation to each tender submitted—

- (a) initiate and have followed through such investigations as the chief executive considers are necessary in relation to the tender; and
- (b) evaluate each gaming machine type submitted and either approve the gaming machine type or reject it; and
- (c) evaluate each game submitted, in relation to a gaming machine type approved under paragraph (b) and either approve the game or reject it; and
- (d) consider the tender and matters accompanying it together with the results of investigations made in relation to the tenders and matters and make an assessment of—
  - (i) if the tenderer is a natural person—the financial stability, general reputation and character of the tenderer; and
  - (ii) if the tenderer is a body corporate—the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate; and
  - (iii) if the chief executive considers it appropriate, the suitability of any associate of the tenderer to be an associate of the tenderer; and
  - (iv) the ability of the tenderer to fulfil an order that may result from the tender; and
  - (v) the ability of the tenderer to provide ongoing technical support and replacement parts.

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(2) If the chief executive has previously evaluated a gaming machine type or game and has either approved the gaming machine type or game or rejected it, the chief executive may determine that a further evaluation of the gaming machine type or game is not required under this section.

(3) The chief executive may by written notice require a tenderer, or an associate of the tenderer, to submit to the chief executive any additional information or material the chief executive considers is necessary in order to make an evaluation or assessment under subsection (1).

(4) The person must comply with the requirement of the chief executive under subsection (3).

(5) Where a tenderer, or an associate of the tenderer, fails to comply to the satisfaction of the chief executive with section 144(2) or a requirement under subsection (3), the chief executive may, without derogating from subsection (6), reject a gaming machine type or game submitted by the tenderer without causing any evaluation or assessment referred to in subsection (1) to be made.

(6) Any person who, in relation to a tender submitted in response to a call under section 144(1) or a requirement under subsection (3), provides or submits information or material knowing it to be false, erroneous or misleading in a material particular commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

(7) Upon completion of the procedure in subsection (1) the chief executive must furnish to the commission—

- (a) all relevant tender price information; and
- (b) a report on each tender submitted; and
- (c) a report on the number of gaming machines required to be purchased.

(8) The commission following consideration of—

- (a) tender price information; and
- (b) the reports of the chief executive;

referred to in subsection (7) and to such other information or material as the commission considers relevant must make a recommendation to the Minister in respect of the tender.

(9) The Minister must submit the recommendation made under subsection (8) to the Governor in Council.

(10) The Governor in Council may make a determination in regard to gaming machines of each gaming machine type to be purchased and the tenderers with which orders are to be placed.

(11) The Governor in Council is not bound to accept the lowest or any tender submitted in accordance with an invitation to tender under this Act.

(12) The chief executive must—

(a) implement; and

(b) except where the chief executive is otherwise ordered by the commission, determine the game, gaming token denomination and betting unit of each gaming machine to be purchased under;

the determination made under subsection (10).

### **Acceptance by chief executive of gaming machines and games for evaluation**

**146.(1)** Without derogating from sections 144 and 145, the chief executive may, subject to payment of the fee prescribed, accept for evaluation gaming machine types and games.

(2) If the chief executive accepts a gaming machine type or game for evaluation under subsection (1), the chief executive must, after evaluation of the gaming machine type or game, either approve the gaming machine type or game or reject it.

(3) Where, under subsection (1), the chief executive accepts for evaluation a gaming machine type or game, the chief executive may require the person that submitted the gaming machine type or game to provide such additional information or material as the chief executive considers is necessary in order to make the evaluation.

(4) Where the requirement is not complied with to the satisfaction of the chief executive, the chief executive may reject the gaming machine type or game without evaluation.

**Withdrawal of approval of gaming machine types and games**

**147.(1)** If the chief executive, under section 191(2) withdraws the approval of an approved gaming machine type or game, the chief executive must immediately give written notice of, and reasons for the withdrawal to—

- (a) the person who submitted the gaming machine type or game under section 144 or 146; and
- (b) licensees provided with any gaming machine of that gaming machine type or game.

**(2)** A licensee who permits gaming on a gaming machine of a gaming machine type or game specified in a notice given to the licensee under subsection (1) commits an offence against this Act.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

**Gaming machines supplied to be in accordance with approval**

**148.** A recognised manufacturer or supplier of gaming machines must not, without the approval of the chief executive, supply a gaming machine that is in any material particular different from the gaming machine type or game approved by the chief executive.

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

**Linked jackpots**

**149.(1)** A licensee on the licensee's licensed premises must not, without the approval of the chief executive—

- (a) install or operate or cause or allow to be installed or operated a single site linked jackpot arrangement; or
- (b) install or operate or cause or allow to be installed or operated or participate in the operation of, a multiple site linked jackpot arrangement; or
- (c) install or operate or cause or allow to be installed or operated or participate in the operation of any other electronically connected gaming machine system, under which the return to a player for a

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result obtained on a gaming machine is different to the return provided for that result by the game as approved by the chief executive.

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

(2) An application for any approval under subsection (1) must—

- (a) be made by a licensee in the approved form; and
- (b) contain or be accompanied by such other matters and particulars the form requires; and
- (c) be accompanied by the fee prescribed; and
- (d) be forwarded to or lodged with the chief executive.

(3) An approval under subsection (1) must be given an identifying approval number.

(4) A licensee must not cease to operate or participate in the operation of, any arrangement or system approved under subsection (1) without the approval of the chief executive.

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

(5) A licensee operating, or participating in the operation of, any arrangement or system approved under subsection (1) who fails to comply with—

- (a) any condition to which the approval is subject; or
- (b) any requirement prescribed in relation to the conduct or operation of any arrangement, or system approved under subsection (1);

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

(6) The licensed operator for a multiple site linked jackpot arrangement must not allow the arrangement to operate in licensed premises until the operator has established an approved trust account for the arrangement.

(7) In each assessment period for licensed premises, the licensed operator must pay into the approved trust account all multiple site jackpot increments for the arrangement for the previous assessment period.

(8) If the arrangement stops operating and the approved trust account still contains an amount, the licensed operator must send the amount to the chief

executive, for payment into the consolidated fund, within 7 days after the day the account stops operating.

(9) In this section—

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

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

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

### **Gaming machines to be labelled with chief executive’s identification number**

**150.(1)** The chief executive must cause an identification number to be issued for each gaming machine.

(2) The chief executive may, at any time after the issue of an identification number for a gaming machine, cause the issue of a new identification number for that gaming machine.

(3) The chief executive must cause each gaming machine to have securely affixed to the machine, by an inspector or other person properly authorised by the chief executive in that behalf, a label showing—

- (a) the identification number issued under subsection (1) or (2); and
- (b) such other particulars as the chief executive considers appropriate;

on 1 internal and 1 external surface of the cabinet of the gaming machine.

(4) A label affixed under this section is to be made of such material, and be affixed, as the chief executive considers appropriate.

(5) A licensee must not allow a gaming machine to be used for the conduct of gaming on the licensee’s premises unless a label mentioned in subsection (3) is securely affixed to the machine.

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

**Gaming prohibited on unprotected devices**

**151.(1)** A licensee must not without lawful excuse be in possession of or permit gaming on a gaming machine unless the computer cabinet of the gaming machine is securely sealed with a seal affixed by—

- (a) an inspector; or
- (b) a licensed repairer acting under this Act; or
- (c) a person properly authorised in that behalf under section 153(4).

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(2)** Subject to subsection (3), at any time when a seal on a computer cabinet has been removed, broken or damaged, the licensee must not permit gaming on the gaming machine until the gaming machine has been examined by an inspector or other person properly authorised by the chief executive in that behalf and the computer cabinet has been sealed.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(3)** Subsection (2) does not apply to a gaming machine that is not available for gaming due to the gaming machine undergoing—

- (a) repairs by a licensed repairer acting under this Act; or
- (b) an alteration to effect a change of game, gaming token denomination or betting unit approved, or caused, by the chief executive under section 55(2).

**Unlawful interference with gaming equipment**

**152.(1)** Subject to subsection (2), a person must not—

- (a) have possession of any device made or adapted, or intended by the person to be used, for interfering with the normal operation of gaming equipment on licensed premises; or
- (b) do any act or thing calculated, or likely, to interfere with the normal operation of gaming equipment on licensed premises; or
- (c) except as provided in section 149, do any act or thing calculated to interfere with gaming equipment under which the return to a player for a result obtained on a gaming machine on licensed premises is different to the return provided for that result by the

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game as approved by the chief executive; or

- (d) do any act or thing calculated to render a gaming machine on licensed premises, either temporarily or otherwise, incapable of producing a winning combination; or
- (e) insert, or cause to be inserted, in a gaming machine on licensed premises anything other than a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) Subsection (1) does not apply to any act or thing done in good faith in connection with—

- (a) the installation, alteration, adjustment, maintenance or repair of gaming equipment by a licensed repairer; or
- (b) the carrying out of any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 73(3); or
- (c) an alteration to a gaming machine to effect a change of game, gaming token denomination or betting unit approved, or caused, by the chief executive under section 55(2); or
- (d) the performance by an inspector of functions under this Act.

(3) A person must not knowingly, because of fraudulent computer programming, gain for that person or another person any advantage in the operation of gaming equipment.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(4) A person who dishonestly, or because of gross negligence, during the design, manufacture or assembly of gaming equipment, makes provision to subsequently gain for that person or another person any advantage in the operation of the gaming equipment commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**Protection of sensitive areas of gaming equipment**

**153.(1)** Subject to subsections (2), (4) and (6), a person who is not an inspector must not—

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- (a) break a seal securing a computer cabinet or gain access to anything within the computer cabinet; or
- (b) affix a seal to a computer cabinet; or
- (c) break a seal protecting the integrity of the game program of a gaming machine; or
- (d) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within the computer cabinet; or
- (e) remove or interfere with a security device of a gaming machine; or
- (f) interfere with the normal operation of the reel assemblies of a gaming machine; or
- (g) interfere with information stored or transmitted electronically by a gaming machine, linked jackpot arrangement or electronic monitoring system; or
- (h) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment; or
- (i) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment; or
- (j) remove, alter or otherwise interfere with the manufacturer's identification plate or the manufacturer's serial number of a gaming machine; or
- (k) remove, alter or otherwise interfere with an identification label affixed to a gaming machine under section 150; or
- (l) affix anything capable of being taken as a label mentioned in section 150 to a gaming machine or a device capable of being taken as a gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) A licensed repairer is authorised, to such extent as is necessary, in the performance of duties as a licensed repairer to do things mentioned in subsection (1)(a) to (i) if—

- (a) a conversion report is submitted under subsection (5) or the

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licensed repairer immediately submits a repairer's report to the chief executive in the approved form; and

- (b) the licensed repairer does not—
  - (i) break a seal securing a computer cabinet; or
  - (ii) affix a seal to a computer cabinet; or
  - (iii) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment; or
  - (iv) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment;

without the approval of the chief executive.

**(3)** If the licensed repairer breaks a seal securing a computer cabinet, the licensed repairer must ensure that the gaming machine is not played (other than for testing purposes) until the computer cabinet is again secured with a seal provided by the chief executive for the purpose.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(4)** The chief executive may authorise a person to do anything mentioned in subsection (1).

**(5)** A person may do something to a gaming machine that is the property of the Crown to effect a change in the game, gaming token denomination or betting unit of the gaming machine only if—

- (a) the alteration is approved, or caused, by the chief executive under section 55(2); and
- (b) if the gaming machine is provided to a licensee—the person performing the alteration immediately submits a conversion report to the chief executive in the form determined by the chief executive.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(6)** Subsection (1)(a) to (j) does not apply to—

- (a) gaming equipment that is not the property of the Crown; or
- (b) if the gaming equipment is an electronic monitoring system—the system is not on licensed premises.

**Wilful damage of gaming equipment**

**154.** A person must not wilfully damage or deface gaming equipment on licensed premises.

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

**Use of gaming machines not provided to licensees**

**155.(1)** A person who is not an officer of the division or any person referred to in subsection (2) must not play or allow another person to play a gaming machine that is not provided by the chief executive to a licensee.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(2)** A person who has possession of a gaming machine—

(a) for the purpose of conducting—

(i) a training course referred to in section 136(3)(d) or 141(3);  
or

(ii) genuine testing or development work referred to in  
section 136(3)(c); or

(b) under an authority under section 141(5), and such authority so  
permits;

may play or allow another person to play the gaming machine only for the  
purpose of simulating gaming.

**(3)** A person who—

(a) plays, or allows another person to play, a gaming machine  
referred to in subsection (2) by the use of a gaming token which  
is—

(i) Australian currency; or

(ii) approved under section 108(3); or

(iii) in any way negotiable; or

(b) allows any winnings to become payable because of playing a  
gaming machine referred to in subsection (2);

commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

## **PART 7—ACCOUNTING PROCEDURES**

### **Monthly money clearances**

**156.(1)** Subject to subsection (2), a licensee must carry out a money clearance of all gaming machines installed on the licensee's licensed premises—

- (a) after the end of the operation of gaming machines that started on the last day of each month; and
- (b) before the start of the operation of gaming machines on the first day of the next month.

**(2)** The chief executive may, either verbally or by written notice, direct a licensee to carry out the money clearance mentioned in subsection (1) during such period as the chief executive determines, and the licensee must comply with the direction.

**(3)** A licensee must, in conjunction with a money clearance carried out under this section, carry out such functions as are prescribed to be carried out in conjunction with the money clearance.

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

### **Weekly money clearances**

**157.(1)** A licensee, at least once in every 7 days, must carry out a money clearance of each gaming machine installed on the licensee's licensed premises.

**(2)** A licensee, in conjunction with carrying out a money clearance under subsection (1), must carry out such functions as are prescribed to be carried out in conjunction with such a money clearance.

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

**Accounts and analyses**

**158.(1)** A licensee must keep and maintain such accounting records, in the way prescribed and in the approved form, as correctly record and explain the licensee's financial operations in respect of, or connected with, gaming and the conduct of gaming on the licensee's licensed premises.

**(1A)** A licensed operator must keep, in the approved form, accounting records that correctly record and explain the operator's financial operations relating to gaming and the conduct of gaming.

**(2)** A licensee or licensed monitoring operator must carry out such accounting analysis as is prescribed.

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

**Monthly gaming machine reconciliation reports to be submitted**

**159.(1)** A licensee must lodge with the chief executive on or before the day prescribed of each month a monthly gaming machine reconciliation report in respect of each of the licensee's licensed premises.

**(2)** Each monthly gaming machine reconciliation report must—

- (a) be made in the way prescribed and in the approved form; and
- (b) give an accurate account of the matters contained in the report in relation to gaming and the conduct of gaming on the premises to which it relates—
  - (i) in the case of the first report after the issue of the licence—during the period from the issue of the licence to the end of the period covered by the report; or
  - (ii) in the case of any subsequent report—during the period from the end of the period covered by the last report lodged in respect of the licensed premises to the end of the period covered by the report in question.

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

**Records not to be falsified etc.**

**160.** A person must not, with intent to defraud—

- (a) destroy, alter, mutilate or falsify any accounting record or report; or
- (b) make, or cause to be made, a false, erroneous or misleading entry in, or omit or alter, or cause to be omitted or altered, an entry in any accounting record or report;

required to be kept, maintained or lodged by a licensee under this part.

Maximum penalty—400 penalty units or 2 years imprisonment.

### **Audit of accounts of licensee**

**161.(1)** In this section—

“**accountant**” means—

- (a) a member of the Institute of Chartered Accountants in Australia who holds a current Certificate of Public Practice issued by the institute; or
- (b) a member of the Australian Society of Certified Practising Accountants who holds a current Public Practice Certificate issued by the society; or
- (c) a person registered as an auditor under the Corporations Law; or
- (d) in a particular case—a member of an accounting body mentioned in paragraph (a) or (b) who—
  - (i) does not hold the current certificate mentioned in the paragraph; and
  - (ii) is approved as an accountant for the case by the chief executive.

**(2)** A licensee, in respect of each of the licensee’s licensed premises, at the licensee’s own expense and within 3 months of the expiration of each financial year, must—

- (a) prepare, or cause to be prepared, a statement of receipts and payments relating to gaming and the conduct of gaming on the licensee’s licensed premises in question during that year; and
- (b) cause the accounts relating to such gaming and conduct of gaming to be audited by an accountant.

(3) If a person ceases for any reason to be a licensee under this Act, the person must, at the person's own expense and within 1 month of ceasing to be a licensee (or any further period the chief executive may allow)—

- (a) prepare a statement of receipts and payments for gaming and the conduct of gaming on the person's licensed premises from the day to which the gaming machine accounts were last audited under subsection (2)(b) to the day the person ceased to be a licensee or, if an audit has not been performed, for the period from the start of gaming to the day the person ceased to be a licensee; and
- (b) have the accounts relating to that gaming and conduct audited by an accountant.

(4) Immediately upon completion of an audit under subsection (2) or (3), the accountant must submit a report on the audit to the chief executive.

(5) A licensee, within 28 days after the preparation of a statement of receipts and payments under subsection (2)(a) or (3)(a) must lodge with the chief executive a copy of the statement certified as being correct by the accountant who performed the audit under subsection (2)(b) or (3)(b).

(6) If the licensee is a club it must also submit—

- (a) a statement detailing the number of members in each class of membership of the club as at the expiration of the financial year; and
- (b) a copy of the annual report of the club including the audited financial statement for the financial year; and
- (c) a statutory declaration signed by the principal executive officer of the club declaring that the proceeds from the conduct of gaming were expended promoting the objectives of the club; and
- (d) such other matters as are prescribed.

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

### **Audit of accounts of licensed operators**

**161A.(1)** As soon as practicable after the end of each financial year, a licensed operator must, at the operator's own expense, cause the operator's

books, accounts and financial statements for the operator's operations relating to gaming and the conduct of gaming for the financial year to be audited by a registered company auditor approved by the chief executive.

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

(2) The auditor must—

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

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

(3) Subsection (2)(a) does not apply to the auditor if, in the circumstances, it would be unreasonable to require the auditor to comply with the paragraph.

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

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

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

### **Books, records etc. to be kept for 7 years**

**162.** Subject to section 181, any accounting record required to be kept and maintained by a licensee under this part must be retained by the licensee for not less than 7 years from the date of the latest entry in the accounting record.

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

## **PART 8—TAXES, LEVIES AND FEES**

### **Monthly taxable metered win**

**163.(1)** Each month the chief executive is to make, or cause to be made, in respect of the preceding month, an assessment of the monthly taxable metered win of each licensed premises and such assessment, subject to section 175, is taken to be, for the preceding month, the monthly taxable metered win of the licensed premises in question.

**(2)** If an assessment is made under subsection (1) by way of an electronic monitoring system installed on the licensee's licensed premises, the period covered by the assessment—

- (a) for the month in which the system is installed—starts when the system first reports data from the premises to the chief executive and ends when the system first reports data from the premises to the chief executive in the next month; and
- (b) for each month after the month in which the system is installed—starts when the system first reports data from the premises to the chief executive for the month and ends when the system first reports data from the premises to the chief executive in the next month.

### **Monthly fees**

**164.(1)** A licensee must pay monthly fees to the chief executive for gaming machines used in the licensee's licensed premises.

**(2)** The monthly fees must be paid on or before the day, prescribed under a regulation, of the month next following the month for which it is payable.

**(3)** The amount of monthly fees to be paid for each licensed premises is to be calculated as prescribed under a regulation.

### **Gaming machine tax**

**165.(1)** A licensee must pay a gaming machine tax to the chief executive each month in respect of the licensee's licensed premises.

- (2)** The gaming machine tax must be paid on or before the day

prescribed of the month next following the month in respect of which it is payable.

(3) The amount of gaming machine tax that is to be paid in respect of licensed premises is to be such amount as is represented by the percentage prescribed, applicable to that category of licensed premises to which the licensed premises belongs, of the monthly taxable metered win of the licensed premises for the month in respect of which the tax is payable.

### **Sport and recreation benefit fund**

**166.** There is to be established and maintained in the Treasury a fund called the sport and recreation benefit fund.

### **Charities and rehabilitation benefit fund**

**167.** There is to be established and maintained in the Treasury a fund called the charities and rehabilitation benefit fund.

### **Gaming machine community benefit fund**

**168.(1)** There is to be established and kept in the Treasury a fund called the gaming machine community benefit fund.

(2) Each month, the chief executive must pay into the fund a percentage of all gaming machine tax for the previous month paid to the chief executive by all licensees.

(3) The percentage mentioned in subsection (2) is the percentage prescribed under a regulation.

### **Gaming Machine Community Benefit Committee**

**169.** The Minister responsible for the administration of the gaming machine community benefit fund—

- (a) must establish a committee called the Gaming Machine Community Benefit Committee; and
- (b) may decide—

- (i) the membership of the committee; and
- (ii) how it is to operate.

### **Payment of monthly fees, taxes etc.**

**170.(1)** A licensee, in respect of each of the licensee's licensed premises, must ensure that the chief executive receives on or before the day prescribed of each month an amount not less than the total amount of—

- (a) the monthly fees and gaming tax; and
- (b) any penalty payable under section 171 on or before that day; and
- (c) any monthly fees, gaming tax or penalty payable and remaining unpaid at the end of the day, prescribed under a regulation, of the preceding month.

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

**(2)** Payments to the chief executive in respect of monthly fees, gaming machine tax or penalty under section 171 must be identifiable as being in respect of a single licensed premises and exclusive of payments for any other licensee or purpose.

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

**(3)** Where a payment to the chief executive that does not comply with subsection (2) is made, the chief executive is to determine the licensed premises or purpose for which the payment was made and this Act applies to the payment as if the payment had been made and identified for the licensed premises or purpose so determined.

### **Penalty for late payment**

**171.(1)** Where, in respect of any licensed premises, by the end of the day prescribed of a month (or at the discretion of the chief executive by a time not more than 7 days later than the end of the day prescribed) the amount received by the chief executive under section 170(1) is less than the total amount referred to in section 170(1) in respect of that month—

- (a) the chief executive must cause to be imposed on the licensee in question a penalty to be calculated by applying the percentage prescribed on the difference between those 2 amounts; and

(b) the amount received is to be credited as prescribed.

(2) A penalty imposed under subsection (1)(a) is due and payable, by the licensee in question, on or before the day prescribed of the month following the date on which it is imposed.

(3) The chief executive, for any reason that the chief executive considers is sufficient, may forgive or refund any penalty payable under this section.

### **Forgiven or overpaid money**

**172.** Where—

- (a) under conditions referred to in section 48(1)(a), the chief executive determines that part of any monthly fee payable is to be forgiven, the amount so forgiven, if paid before the determination; or
- (b) the amount received by the chief executive in any month under section 170(1) is greater than the total amount referred to in section 170(1), the difference; or
- (c) under section 171(3), the chief executive determines all or part of any penalty payable is to be forgiven, the amount so forgiven, if paid before the determination;

is to be either—

- (d) taken to be a payment forming part of the payment to be made for the following month under section 170(1) in respect of the licensed premises; or
- (e) at the discretion of the chief executive, forwarded to the licensee, upon written application by the licensee.

### **Statement and report by the chief executive**

**173.(1)** The chief executive must forward to a licensee as soon as practicable after the receipt of each monthly gaming machine reconciliation report from the licensee or, if a complete report is not received by the expiration of 10 days after the date on which the report is due, as soon as practicable after that expiration—

- (a) a financial statement; and

(b) a gaming machine performance report;

containing such particulars as the chief executive considers appropriate in respect of the licensee's licensed premises in question.

(2) The chief executive, by written notice, may require a licensee to furnish to the chief executive an explanation, by a machine manager, in relation to any matter contained in a statement or report mentioned in subsection (1).

(3) A licensee must on receipt of a statement or report mentioned in subsection (1) cause the report to be reviewed and signed by a machine manager in respect of the licensed premises in question.

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

### **Disposition of fees etc.**

**174.(1)** All fees and charges payable under this Act, other than a payment referred to in subsection (2), received by the chief executive must be paid into the consolidated fund.

(2) A payment in respect of a monthly fee, gaming machine tax or penalty under section 171, must on its receipt be paid into an account established in the Treasury for the purpose of holding such payments until an assessment is made on the amounts of such payment under subsection (3).

(3) A payment mentioned in subsection (2) must, as soon as practicable after the licensee receives a financial statement under section 173(1)(a), be withdrawn from the account mentioned in subsection (2) and the part of the payment assessed by the chief executive as the monthly fees, gaming tax or a penalty under section 171, must be paid by the chief executive into the consolidated fund.

(4) The Minister who is charged with the administration of the Sport and Recreation Benefit Fund may cause amounts to be paid out of the fund for the benefit of sport and recreation.

(5) The Minister who is charged with the administration of the Charities and Rehabilitation Benefit Fund may cause amounts to be paid out of the fund for charitable, rehabilitative or social development purposes.

(6) The Minister responsible for the administration of the Gaming Machine Community Benefit Fund may, having regard to the recommendation of the Gaming Machine Community Benefit Committee, cause amounts to be paid out of the fund for the benefit of the community.

### **Adjustment of monthly fees etc. in certain circumstances**

**175.** If the chief executive forms the opinion, in respect of a licensed premises, that an assessment of the monthly taxable metered win or a calculation of monthly fees, gaming machine tax or penalty under section 171 for a month in respect of which the chief executive has previously forwarded a statement under section 173(1), is in error, the chief executive may—

- (a) cause to be made an amended assessment or an amended calculation and, if an amount previously calculated as being payable—
  - (i) is less than the amount of the chief executive's amended calculation the difference is to be added to; or
  - (ii) is more than the amount of the chief executive's amended calculation the difference is to be deducted from;

the applicable amount of monthly fees, gaming machine tax or penalty under section 171, which becomes due and payable by the day prescribed of the month next following the month in which the amended calculation is made; and

- (b) advise the licensee accordingly.

### **Recovery of fees and taxes**

**176.(1)** Any monthly fees, gaming machine tax or penalty payable under section 171 that remains unpaid may be recovered as a debt payable by the licensee to the Crown.

(2) The chief executive, instead of proceeding with or continuing an action under to subsection (1), may accept in full payment of any debt payable, an amount that is less than the amount payable or remaining unpaid where—

- (a) the gaming machine licence in relation to which the debt is

payable has been cancelled or surrendered; and

- (b) the person who held the licence is not the holder of any other gaming machine licence.

### **Offences relating to revenue**

**177.(1)** A licensee who—

- (a) wilfully evades the payment, in whole or part, of any monthly fees or gaming machine tax payable under this part or any penalty payable under section 171; or
- (b) makes or furnishes, or authorises or permits the making or furnishing to the chief executive of a monthly gaming machine reconciliation report knowing the report to be false, erroneous or misleading in a material particular;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**(2)** A licensee who—

- (a) makes or furnishes, or authorises or permits the making or furnishing to the chief executive of a monthly gaming machine reconciliation report that is false, erroneous or misleading in a material particular, without having taken reasonable steps to ensure that the report was not false, erroneous or misleading in a material particular; or
- (b) knowingly lodges or causes to be lodged with the chief executive a remittance of an amount less than the amount due and payable under with section 170(1);

commits an offence against this Act.

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

### **Offences relating to explanations**

**178.(1)** A licensee who, when required under section 173(2) to furnish a written explanation—

- (a) fails to furnish a written explanation; or

- (b) knowingly furnishes an explanation that is false, erroneous or misleading in a material particular;

commits an offence against this Act.

(2) A machine manager who knowingly makes a written explanation, for the purposes of a requirement under section 173(2), that is false, erroneous or misleading in a material particular commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

## **PART 9—DIRECTIONS, POWERS ETC.**

### **Interpretation**

**179.** In this part—

“**article**” means—

- (a) gaming equipment; or
- (b) a restricted component; or
- (c) a device capable of being represented as being a gaming machine or linked jackpot arrangement; or
- (d) anything capable of forming gaming equipment; or
- (e) anything inserted, or capable of being inserted, into a gaming machine in order to operate or gain credit on the gaming machine (other than a gaming token of the denomination or type displayed on the gaming machine); or
- (f) any device intended for use, or capable of being used, to interfere with the normal operation of gaming equipment; or
- (g) anything that permits or facilitates cheating or stealing; or
- (h) a gaming token; or
- (i) any lock or key; or
- (j) any counter of or apparatus for weighing gaming tokens; or
- (k) any other item related to—

- (i) gaming or the conduct of gaming; or
- (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment.

**“records”** means any books, accounts, records or documents, in any form, which are related to—

- (a) the conduct of gaming; or
- (b) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (c) the administration of licensed premises.

### **Directions to licensees and licensed operators**

**180.(1)** The commission or chief executive may, by written notice, give directions to—

- (a) a licensee about the conduct of gaming or the administration of the licensee’s licensed premises; and
- (b) a licensed operator about the conduct of gaming or supplying basic monitoring services to a licensee.

**(2)** A licensee or licensed operator to whom a notice is given must comply with the directions of the commission or chief executive under subsection (1).

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

**(3)** If a licensee or licensed operator who has been convicted of an offence of failing to comply with directions given under subsection (1), continues to fail to so comply, the licensee commits an offence against this Act.

Maximum penalty—20 penalty units for each day on which the failure continues.

**Powers of inspectors**

**181.(1)** An inspector, who, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act, may, subject to subsections (2) and (7) enter, be and remain on licensed premises or any other place in or at which the inspector believes on reasonable grounds any—

- (a) article is manufactured, assembled, sold, supplied, stored, transported, handled, installed, altered, obtained, possessed, operated, used, adjusted, maintained, repaired or kept; or
- (b) records are made, maintained, prepared, handled, stored or kept;

and may—

- (c) make such investigations and inquiries as are necessary to ascertain whether this Act is being complied with; and
- (d) make an inspection of the licensed premises or other place and of—
  - (i) any articles, records, fittings and fixtures; or
  - (ii) any other thing of any kind apparently used, or capable of being used, in connection with—
    - (A) gaming or the conduct of gaming; or
    - (B) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; and
- (e) open, or order to be opened—
  - (i) any container or other receptacle of any kind; or
  - (ii) a door of any container or other receptacle of any kind;  
used for the storage or conveyance of any article or records or that the inspector believes on reasonable grounds contains any article or records; and
- (f) search for and seize and retain any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act or any other Act or

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law suspected by the inspector on reasonable grounds to have been committed; and

- (g) open or order to be opened any gaming equipment; and
- (h) inspect and test any gaming equipment or part of the gaming equipment and order the withdrawal from use of any gaming equipment or part considered by the inspector to be unsatisfactory for use; and
- (i) take such photographs, or films or audio or visual recordings that he or she considers may afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been, or to be likely to be, committed; and
- (j) require a person to produce to the inspector any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to that person or alleged by that person to have been granted or issued to that person; and
- (k) when so required by the chief executive—
  - (i) provide gaming machines and linked jackpot equipment to a licensee; or
  - (ii) alter a gaming machine to effect a change in the game, gaming token denomination or betting unit; or
  - (iii) take possession of and remove any gaming equipment or ancillary or related property of the Crown and do such works and actions as are required in order to do so; and
- (l) in all other respects, exercise the inspector's powers and perform the inspector's functions under this Act.

(2) Where an act referred to in subsection (1)(a) or (b) is carried out during the night time, an entry and inspection under subsection (1) may be made at all reasonable times during the day time or night time but otherwise such entry and inspection must be made at all reasonable times during the day time.

(3) An inspector, who believes, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act, may—

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- (a) require any person who has in the person's possession or under the person's control any article or records to—
  - (i) produce for the inspector's inspection any such article or records; and
  - (ii) attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to any article or records or any entry in any article or records; and
- (b) inspect any article or records referred to in paragraph (a) and take such notes or copies of or in relation to such records or take extracts from such records as the inspector considers are necessary; and
- (c) for the purpose of obtaining evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law, seize and retain any article or records inspected by the inspector under paragraph (b); and
- (d) require any person responsible for or connected with—
  - (i) the conduct of gaming; or
  - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (iii) the administration of licensed premises;to attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to the matters referred to in this paragraph; and
- (e) require a person to state the person's full name, the address of the person's usual place of residence and the person's date of birth or any of those particulars; and
- (f) require a person referred to in paragraph (e) to produce evidence of the correctness of any particular stated in answer to a requirement made under that paragraph if the inspector suspects that the particular is false; and
- (g) receive and investigate complaints from any person with respect

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to—

- (i) gaming; or
  - (ii) the conduct of gaming; or
  - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (iv) the administration of licensed premises;
- and advise the person the results of the investigations; and
- (h) stop and search any vehicle or vessel used or that the inspector believes on reasonable grounds has been, is being, or is likely to be, used for the conveyance of any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act; and
    - (i) call to the inspector's aid—
      - (i) another inspector or a police officer; or
      - (ii) a person whom the inspector thinks is competent to assist the inspector in the exercise of the inspector's powers or the performance of the inspector's functions under this Act; and
    - (j) use such force as is reasonably necessary in the circumstances in the exercise of the inspector's powers or in the performance of the inspector's functions under this Act; and
    - (k) in order to identify or protect the integrity of any article, records or other thing, mark, fasten, secure or seal—
      - (i) the article, records or other thing; or
      - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to the article, records or other thing; and
    - (l) exercise such other powers and authorities and perform such other functions as are prescribed.
- (4) Any—**
- (a) article, records or other thing seized and retained under subsection (1)(f); or

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(b) article or records seized and retained under subsection (3)(c);

may be detained for such period as the inspector, on reasonable grounds, thinks fit and, where any proceedings are started for the purpose of which the article or records or other thing was or were retained, must be detained until the final determination of those proceedings including any appeal in respect of those proceedings.

(5) Where under subsection (1)(f) or (3)(c) records are seized and retained, the person entitled to possession of the records, on application to the inspector who retained the records and within a reasonable time after the seizure, is to be furnished by the inspector with a correct copy of the records.

(6) A copy of records furnished under subsection (5) certified by the inspector as being a correct copy is admissible as evidence in any court and has the same effect as if it were the original of the records.

(7) Before an inspector enters any premises that are used or any part of premises that is used exclusively as a dwelling house, the inspector must, except where the inspector has the permission of the occupier of the premises or part of the premises to the entry, obtain from a justice a warrant to enter the premises or part.

(8) For the purposes of subsections (6) to (10), premises used as a dwelling house do not include the curtilage of those premises.

(9) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect that any article, records or other thing relevant to the administration of this Act is or are on premises or a part of premises used exclusively as a dwelling house and that—

- (a) in respect of the article, records or thing an offence against this Act or any other Act or law has been, is being or is likely to be, committed; or
- (b) it is or they are likely to be or provide evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law;

may issue a warrant, directed to the inspector, to enter the premises or part of premises specified in the warrant for the purpose of exercising the inspector's powers and performing the inspector's functions under this Act.

(10) For 1 month from the date of its issue, a warrant is sufficient

authority for the inspector and any person acting in aid of the inspector—

- (a) to enter the premises or part of premises specified in the warrant; and
- (b) to exercise the inspector's powers and perform the inspector's functions under this Act.

(11) For the purpose of gaining entry to any place that the inspector is authorised under this Act to enter, an inspector and all persons acting in aid of the inspector may use such force as is reasonable in the circumstances.

(12) A person who is acting in aid of an inspector has and may exercise all or any of the powers of an inspector and perform the functions of an inspector.

(13) A requirement by an inspector under this section may be made verbally or given in writing directed to the person to or on whom it is made.

(14) A requirement made to a person by an inspector under this section to produce records is, where the records are not written, or are not written in the English language, a requirement to produce (at that person's expense)—

- (a) such records; and
- (b) a statement, written in the English language, setting forth such information in the records as is not written or is not written in the English language.

(15) A person is not required, in respect of any matter within the application of this Act, to answer any question or give any information tending to incriminate the person.

### **Offences relating to inspectors**

**182.** A person must not—

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate any inspector or person acting in aid of an inspector who is exercising powers or performing functions under this Act or attempting to do so; or
- (b) when required under this Act to produce—
  - (i) for inspection any article or records; or

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- (ii) any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to the person; fail without lawful excuse to produce any such thing in accordance with such requirement; or
- (c) when required under this Act to attend before an inspector, fail without lawful excuse to so attend in accordance with such requirement; or
- (d) when required under section 181(3)(a) or (d) to answer any question or supply any information with respect to—
  - (i) any article, records or any entry in such records; or
  - (ii) the conduct of gaming; or
  - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (iv) the administration of licensed premises;or, knowing or being in a position to know the answer or information required, fail to answer that question or supply that information or supply information that is to the person's knowledge false, erroneous or misleading in a material particular; or
- (e) when required under section 181(3)(e) to state the person's full name, the address of the person's usual place of residence and the person's date of birth or any of those particulars—
  - (i) fail to immediately state any such particular; or
  - (ii) state any false particular; or
- (f) when required under section 181(3)(f) to produce evidence of the correctness of any particular—
  - (i) fail to produce that evidence; or
  - (ii) produce false evidence with respect to that particular; or
- (g) retake any article, records or other thing seized and retained under this Act; or
- (h) tamper with—

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- (i) any article, records or other thing; or
- (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to any article, records or other thing;  
marked, fastened, secured or sealed under this Act; or
- (i) fail to open any container or other receptacle of any kind, a door of a container or other receptacle of any kind or any gaming equipment when ordered to do so by an inspector acting under this Act; or
- (j) fail to withdraw from use any gaming equipment or part of the gaming equipment considered by an inspector to be unsatisfactory for use when ordered to do so by an inspector acting under this Act; or
- (k) prevent, directly or indirectly, a person from attending before an inspector, or producing to an inspector any article, or records or answering any question or supplying any information to an inspector when that person is required to do so under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**Minister may order inquiry**

**183.(1)** The Minister may, if the Minister thinks fit, nominate and appoint in writing the commission, a commissioner, the chief executive or any other person to hold an inquiry into any or all aspects of—

- (a) gaming; or
- (b) the conduct of gaming; or
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

**(2)** In the holding of the inquiry the commission, commissioner, chief executive or other person has and may exercise all the powers, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950* except such as are provided by

sections 4, 4A, 5A, 5B, 10(3), 13, 14(1A), 19A, 19B, 19C and 26 to 32 of that Act.

(3) Nothing contained in this section affects any other powers that a commissioner or the chief executive has as an inspector under this Act or, where the other person is an inspector, that the other person has as an inspector under this Act.

### **Review and termination of agreements**

**184.(1)** A listed person or a holder of a licence under this Act, if directed by the chief executive to do so, must furnish to the chief executive within the time stipulated in the direction such information or material as the chief executive thinks fit with respect to any lease, agreement or arrangement (“**the agreement**”) that the listed person or holder has with any other person relating to the conduct of the business of the listed person or holder.

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

(2) Without limiting subsection (1), matters concerning which the chief executive may direct the furnishing of information or material include—

- (a) names of persons entering into the agreement; and
- (b) description of any property, goods or other things or any services provided or to be provided; and
- (c) value, type or nature of consideration; and
- (d) period of the agreement.

(3) A listed person or a holder of a licence under this Act, if directed by the chief executive to do so, must furnish to the chief executive within the time stipulated in the direction a copy of the agreement (if it is in writing).

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

(4) If the chief executive, after reviewing information or material furnished under this section, considers (having regard to the terms of the agreement and such other information or material as the chief executive considers is relevant) that the continuation of the agreement—

- (a) is not in the public interest; or
- (b) jeopardises the integrity of—

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- (i) gaming; or
- (ii) the conduct of gaming; or
- (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;

the chief executive may issue to a listed person or a holder of a licence under this Act who is the party to the agreement a written notice to show cause why the agreement should not be terminated.

(5) Notice under subsection (4) is to set out the grounds for its issue and is to stipulate a date, not less than 21 days after its issue, on or before which cause is to be shown.

(6) Copy of the notice under subsection (4) is to be given to the other party to the agreement.

(7) A listed person or a holder of a licence under this Act to whom notice under subsection (4) is issued may give a written answer to the chief executive to show cause at any time not later than the date stipulated in the notice in that respect.

(8) The other party may make such written submissions to the chief executive as the party thinks fit at any time not later than that stipulated date.

(9) The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (8) and, if the chief executive considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice—the chief executive is not to take any action or any further action in relation to the notice; or
- (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made—the chief executive may recommend to the commission that the agreement be terminated.

(10) If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

(11) The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (10) and to such other information or material as the commission considers is relevant, may—

- (a) take no action with respect to the agreement if the commission considers action is not warranted; or
- (b) direct the termination of the agreement.

(12) The commission's direction referred to in subsection (11)(b) is to be given in writing to the parties to the agreement and is to specify the reasons for the termination and a date on which the agreement is terminated under this Act if not sooner terminated.

(13) The agreement in question, if not sooner terminated by the parties to the agreement, is terminated by force of this Act on the date specified for the purpose in the direction.

(14) The termination of the agreement by force of this Act does not affect the rights and obligations of the parties to the agreement up to the time of such termination.

(15) No liability for breach of the agreement attaches to any party to the agreement because of its termination by force of this Act.

### **Financial institution may be required to furnish particulars**

**185.(1)** The manager or other principal officer of a financial institution in which a licensee keeps and maintains an account in relation to the operation of the licensee's licensed premises must, when so required in writing by an inspector, furnish to the inspector a statement of account and any other particulars required by the inspector to be so furnished, including copies of cheques or records relevant to the account.

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

(2) No liability is incurred by the financial institution or the manager or other principal officer of the financial institution in respect of any breach of trust or otherwise because of the furnishing of any statement or particulars or copies under this section.

(3) An inspector must not, without the approval of the chief executive, make a requirement under subsection (1).

## **PART 10—GENERAL**

### **Certain persons not to play gaming machines**

**186.(1)** A licensed repairer must not play gaming machines installed on licensed premises except to such extent as is necessary for the repairer to do so to alter, adjust, maintain, repair or test the gaming machines.

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

**(2)** A person who is a licensee or machine manager must not play gaming machines installed on licensed premises of which that person is licensee or machine manager—

- (a)** during the period that the person is the licensee or machine manager of the licensed premises, except to such extent as is necessary to do so in the course of carrying out duties as such licensee or machine manager; and
- (b)** for the period of 30 days after ceasing to be such licensee or machine manager.

Maximum penalty—40 penalty units.

**(2A)** A licensed key monitoring employee must not play gaming machines installed on licensed premises that are connected to an electronic monitoring system operated by the licensed operator for whom the employee is a licensed key monitoring employee.

Maximum penalty—40 penalty units.

**(2B)** A former employee must not, for 30 days after becoming a former employee, play gaming machines installed on licensed premises that are connected to an electronic monitoring system operated by the licensed operator for whom the person was a licensed key monitoring employee when the person became a former employee.

Maximum penalty—40 penalty units.

**(3)** Where winnings become payable because of playing a machine as authorised by this section, those winnings remain the property of the licensee and are not payable to any person.

**(4)** In this section—

**“former employee”** means a person who was a licensed key monitoring employee.

### **Officers of division may be prohibited from playing gaming machines**

**187.(1)** An officer of the division, if so directed in writing by the chief executive, must not play gaming machines provided to a licensee except to such extent as is necessary for the officer to do so in the course of carrying out duties as an officer of the division.

**(2)** A direction given under subsection (1) may be made subject to such conditions as the chief executive thinks fit.

### **Prohibition on control of applications by clubs**

**188.** A person must not have or gain—

- (a) control over, or the ability to control—
  - (i) whether or not a club makes an application under part 3; or
  - (ii) the content of any application made by a club under part 3;or
- (b) the ability to interpose between a club and the chief executive in respect to an application made by the club under part 3;

unless the person is the secretary, an executive officer or a member of the club carrying out the duties or exercising the normal rights that person has as such secretary, executive officer or member.

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

### **Restriction on certain agreements**

**189.(1)** A licensee or any other person must not enter into, or be a party to, any lease, agreement or arrangement for a person to lease, let, lend or otherwise provide any property or thing or to furnish any service to the licensee in return for any direct or indirect interest in or percentage or share of—

- (a) the amount bet for the purpose of gaming; or
- (b) moneys, revenues, profits or earnings from the conduct of

gaming;

on the licensee's licensed premises.

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

(2) If a licensee or any other person, before the issue of the licensee's gaming machine licence has entered into or has in any way become a party to any lease, agreement or arrangement referred to in subsection (1), the lease, agreement or arrangement on and from the issue of the gaming machine licence, to the extent that it contravenes or is inconsistent with subsection (1), is void.

(3) No right of action arises against any person because of the operation of subsection (2).

(4) The commission, where the commission is of the opinion that it is in the public interest to do so, may exempt in writing any lease, agreement or arrangement referred to in subsection (1) and subject such exemption to such conditions as the commission considers appropriate.

(5) Any exemption under subsection (4) may, at any time, be revoked by the commission.

(6) This section does not apply to an agreement between a licensee and a licensed operator for electronically monitoring the licensee's gaming machines in conjunction with supplying other services.

### **Exemption of devices etc.**

**190.(1)** The chief executive may declare that anything is not a gaming machine or a device capable of being represented as being a gaming machine for the purposes of this Act.

(2) The chief executive may declare that anything is not a restricted component for the purposes of this Act.

(3) Any declaration under this section may, at any time, be revoked by the chief executive.

### **Approvals and authorities under this Act**

**191.(1)** Where this Act provides that any act or thing must not be done except with, or may be done with, the approval or authorisation of the

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Minister, commission or chief executive, that approval or authorisation may be granted by the Minister, commission, chief executive or director by instrument in writing.

(2) A person referred to in subsection (1) may in respect of any approval or authorisation by the person—

- (a) subject such approval or authorisation to conditions; and
- (b) at any time—
  - (i) subject the approval or authorisation to further conditions; and
  - (ii) vary the conditions or further conditions; and
  - (iii) withdraw such approval or authorisation;

if the person considers it necessary or appropriate in the public interest or for the proper conduct of gaming.

(3) Without derogating from section 149(5), a person must not fail to comply with any condition to which an approval or authorisation is subject.

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

(4) A person must not—

- (a) modify anything subject to an approval or authorisation from; or
- (b) fail to maintain anything subject to an approval or authorisation in;

the form, state or condition in which it was approved or authorised except in order to comply with conditions to which the approval or authorisation is subject.

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

**Signatories to approvals and written requirements etc. of the commission**

**192.** An approval or authorisation or any written requirement, notification, direction, exemption or order by the commission is to be signed by the chairperson and 2 other commissioners.

**Bribery of commissioners or officers of division**

**193.(1)** Any commissioner or officer of the division who corruptly asks for, receives, or obtains or agrees to receive or obtain any money, property or benefit of any kind for the commissioner or officer or any other person—

- (a) so that the commissioner or officer will forego or neglect functions under this Act or in order to influence the commissioner or officer in the performance of functions under this Act; or
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the commissioner or officer in the performance of functions under this Act; or
- (c) for the commissioner or officer to use or take advantage of the commissioner's or officer's position improperly to gain any benefit or advantage for or facilitate the commission of an offence by another person;

commits an offence against this Act.

**(2)** Any person who corruptly gives, confers or procures or promises or offers to give, confer or procure to, upon or for any commissioner or officer of the division or any other person any money, property or benefit of any kind—

- (a) so that the commissioner or officer will forego or neglect functions under this Act or in order to influence the commissioner or officer in the performance of functions under this Act; or
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the commissioner or officer in the performance of functions under this Act; or
- (c) for the commissioner or officer to use or take advantage of the commissioner's or officer's position improperly to gain any benefit or advantage for or facilitate the commission of an offence by the first person or any other person;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**Financial connections and interests of officers of the division****194.(1)** An officer of the division—

- (a) must not knowingly have, directly or indirectly—
  - (i) any business or financial connection with; or
  - (ii) any business or financial interest in any matter in conjunction with;  
a listed person or a holder of a licence under this Act; or
- (b) must not—
  - (i) be; or
  - (ii) be an employee in any capacity of; or
  - (iii) hold the position of executive officer or secretary of a body corporate which is;  
a listed person or a holder of a licence under this Act; or
- (c) must not, without the approval of the chief executive, solicit or accept employment from, be an employee in any capacity of, or have a business or financial connection with a listed person or a holder of a licence under this Act within a period of 1 year after the officer ceases to be an officer of the division.

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

**(2)** A listed person or a holder of a licence under this Act—

- (a) must not knowingly have, directly or indirectly—
  - (i) any business or financial connection with; or
  - (ii) any business or financial interest in any matter in conjunction with;  
an officer of the division; or
- (b) must not employ in any capacity an officer of the division; or
- (c) must not, without the approval of the chief executive, employ in any capacity or have a business or financial connection with a person who was an officer of the division within a period of 1 year after that person ceases to be an officer of the division.

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

(3) An officer of the division who has directly or indirectly—

- (a) any business or financial connection with; or
- (b) any business or financial interest in any matter in conjunction with;

a person who becomes a listed person, a holder of a licence under this Act or an applicant for a licence under this Act must, immediately upon becoming aware that the person has so become listed, licensed or an applicant—

- (c) notify the chief executive of such connection or interest; and
- (d) if directed by the chief executive, terminate the connection or relinquish the interest within a time specified by the chief executive.

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

(4) This section does not apply so as to prohibit an officer of the division—

- (a) from being a financial member of a club that is a licensee, or having such other financial connection with the club as is generally had by other members of the club; or
- (b) from having any business or financial connection (being a connection that is not related to the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, adjustment, maintenance or repair of gaming equipment) with a listed person or holder of a licence under this Act such as is generally had by members of the public.

(5) An officer of the division must, immediately upon making application for membership of a club that is a licensee or an applicant for a gaming machine licence, notify the chief executive of the making of the application.

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

(6) In subsections (3), (4) and (5)—

**“officer of the division”** includes a person who has ceased to be an officer

of the division if less than 1 year has elapsed since the person ceased to be an officer.

### **Reporting of accounting discrepancies and criminal activity**

**195.(1)** A licensee or machine manager who becomes aware or suspects that a person by fraud, misrepresentation or theft has obtained a benefit for the person or another person in relation to gaming or the conduct of gaming must, within 3 days of so becoming aware or suspecting, advise the chief executive in writing of all facts known to the licensee or machine manager in relation to the fraud, misrepresentation or theft.

**(2)** A person who—

- (a) terminates the employment or otherwise prejudices the career of;  
or
- (b) prejudices the safety of; or
- (c) intimidates or harasses;

any licensee, machine manager or other person because the licensee or machine manager has advised, or may advise, the chief executive under subsection (1) commits an offence against this Act.

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

### **Cheating**

**196.(1)** A person must not dishonestly—

- (a) by a scheme or practice; or
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing;

in relation to gaming or the conduct of gaming, induce a licensee, or a person acting on behalf of the licensee, to deliver, give or credit to the person or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

**(2)** A licensee must not dishonestly—

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- (a) by a scheme or practice; or
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing;

in relation to gaming or the conduct of gaming, induce a person to deliver, give or credit to the licensee or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(3) In subsection (2)—

“**licensee**” includes—

- (a) a machine manager or a person who supervises gaming or attends to gaming machines on behalf of a licensee; and
- (b) a person employed by a licensee to sell or redeem gaming tokens or carry out centralised credit transactions on behalf of the licensee.

(4) A person must not dishonestly cause gaming equipment to deliver, give or credit to the person or another person any gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(5) A person must not, for the purpose of cheating or stealing in relation to gaming or the conduct of gaming, use, or be in possession of—

- (a) any gaming tokens that the person knows are bogus or counterfeit; or
- (b) anything that permits or facilitates cheating or stealing.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

### **Forgery and like offences**

**197.** A person who—

- (a) forges or counterfeits any gaming token, licence, identification card or other form of identification authorised to be issued under this Act; or
- (b) knowingly utters any such gaming token, licence, identification

- card or other form of identification so forged or counterfeited; or
- (c) personates any person named in any such licence, identification card or other form of identification; or
  - (d) falsely represents that the person is an inspector or an officer of the division; or
  - (e) connives at any such forging, counterfeiting, uttering, personating or representing as referred to in this section; or
  - (f) provides or submits information or material knowing it to be false, erroneous or misleading in a material particular in, or in relation to, any application, response to a requirement, submission, advice, notification, answer to a notice, statement or affidavit made under this Act;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**Detention, arrest etc. of persons by police officers in relation to offences under s 67, 135(1) or (2), 152(1), 196 or 197**

**198.(1)** Any police officer may arrest without warrant any person who has, or whom the police officer suspects on reasonable grounds has, committed or attempted to commit an offence against section 67, 135(1) or (2), 152(1), 196 or 197.

**(2)** Any police officer who under subsection (1) arrests a person, may—

- (a) search that person and the possessions of that person; and
- (b) seize anything found because of the search that may afford evidence of the commission of an offence; and
- (c) use such force as is reasonable in the circumstances for the purpose of such detention and search.

**(3)** Before arresting any person under subsection (1), any police officer who is not readily identifiable as a police officer must produce to the person the officer's identification issued to the officer by the commissioner of the police service.

**Liability for offences by servants, agents or employees**

**199.(1)** Where a person commits an offence against this Act as servant, agent or employee, then, without derogating from the Criminal Code, section 7, the employer of that person is, subject to subsection (2), taken—

- (a) to have committed the offence; and
- (b) to be criminally responsible for the act or omission that constitutes the offence;

and, despite the Criminal Code, section 23, or any other rule of law or practice, may be charged with the offence and punished accordingly.

**(2)** It is a defence to a prosecution for an offence against an employer referred to in subsection (1) to prove that the offence was committed without the employer's consent or connivance and that the employer exercised due diligence to prevent the commission of the offence.

**(3)** In proceedings for an offence against this Act alleged to have been committed by a defendant as servant, agent or employee, the court must not convict the defendant if the evidence establishes that—

- (a) the offence was committed while the business of the defendant's employer was being conducted under the personal supervision of the employer or any manager or any other representative of the employer; and
- (b) the reason that the defendant committed the offence was that the defendant had been compelled to do so by the employer, manager or representative.

**(4)** Except as provided by subsection (2), this section applies so as not to prejudice liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

**Liability for offence by body corporate**

**200.(1)** Where a body corporate commits an offence against this Act, then, without derogating from the Criminal Code, section 7—

- (a) the person who, at the time the offence is committed, is secretary or an executive officer of the body corporate; and
- (b) every person who, at the time the offence is committed, manages

or acts or takes part in the management, administration or government of the business of the body corporate in Queensland;

is, subject to subsection (3), taken—

- (c) to have committed the offence; and
- (d) to be criminally responsible for the act or omission that constitutes the offence;

and, despite the Criminal Code, section 23, or any other rule of law or practice, may be charged with the offence and punished accordingly.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a prosecution for an offence against this Act brought against a person specified in subsection (1)(a) or (b) to prove that the offence was committed without that person's consent or connivance and that the person exercised due diligence to prevent the commission of the offence.

### **Power to request name and address by police officers**

**201.(1)** Any police officer, in connection with the exercise of any powers or the discharge by the police officer of any duties under this Act in relation to any person, may request that person to state the person's full name, the address of the person's usual place of residence and his or her date of birth or any of those particulars.

(2) If the police officer suspects on reasonable grounds that any of the particulars stated is false, the police officer may request evidence of the correctness of the particulars.

(3) A person requested under this section to state the person's name, address and date of birth or any of those particulars who—

- (a) fails to immediately state any such particulars; or
- (b) states any false particulars;

commits an offence against this Act.

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

(4) A person requested under this section to produce evidence of the correctness of any particulars who—

- (a) fails to produce that evidence; or
- (b) produces false evidence with respect to those particulars;

commits an offence against this Act.

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

(5) A police officer may arrest without warrant any person who, when requested under this section—

- (a) to state that person's name, address and date of birth or any of those particulars; or
- (b) to produce evidence of the correctness of any such particulars;

fails to do so or states any name, address or date of birth or produces evidence that in the opinion of the police officer is false.

(6) Any police officer who makes a request of a person under this section must—

- (a) if the police officer is not readily identifiable as a police officer, produce to the person the officer's identification issued to the officer by the commissioner of the police service; and
- (b) warn the person when making the request that failure to comply with the request or to state false particulars or to produce false evidence with respect to the particulars requested is an offence against this Act.

### **Fingerprints and the like**

**202.(1)** Where a person has been arrested for an offence or an attempt to commit an offence against section 135(1) or (2), 152(1), 196 or 197, a police officer at the police establishment or police station to which the person is taken after arrest, or where the person is in custody, may take all such particulars as the police officer considers necessary for the identification of the person, including the person's voice print, photograph, fingerprints, palm prints, footprints, toe prints and handwriting.

(2) In taking those particulars (other than any voice print or handwriting), such force as is reasonable in the circumstances may be used.

(3) A court that convicts a person who appears personally before it of an offence or an attempt to commit an offence against section 135(1) or (2), 152(1), 196 or 197 may, in its discretion, order that person into the custody of a police officer for the purpose of obtaining any particulars referred to in subsection (1).

(4) That police officer and any other police officer acting in aid of that police officer must take that person to a place where those particulars can adequately be taken and take those particulars.

(5) In taking the person to the place, such force as is reasonable in the circumstances may be used.

(6) Where a person is found not guilty of an offence or an attempt to commit an offence against section 135(1) or (2), 152(1), 196 or 197, any voice print, photograph, fingerprints, palm prints, footprints, toe prints or handwriting previously taken under this section in relation to the offence in respect of which the person was found not guilty must, on written request by the person, be destroyed in the person's presence or in the presence of a person nominated by the person.

### **Claims of privilege in proceedings for offences**

**203.(1)** In proceedings for an offence against this Act, a prosecutor or a witness for the prosecution must not be compelled to disclose information, or produce any document containing the information, where the information may be subject to a genuine claim of privilege under any Act or law.

(2) Except as provided in subsection (1), in proceedings for an offence against this Act a prosecutor or a witness for the prosecution, on application by or on behalf of the defendant, may be compelled to disclose to the court information relevant to the proceedings or produce any document containing information relevant to the proceedings.

(3) The court in the interests of justice, having regard to all the circumstances of the proceedings, must determine if the information is to be disclosed, or the document produced, to the defendant or the defendant's legal representative.

**Protection of officers etc.**

**204.** No liability is incurred by the Crown, the Minister, the commission, a commissioner, the chief executive, the commissioner of the police service, any inspector or any other officer of the division or any police officer or other person acting under this Act in aid of an inspector on account of anything done for the purposes of this Act.

**Attempt to commit offence**

**205.(1)** A person must not attempt to commit an offence against this Act.

**(2)** A person convicted of the offence of attempting to commit an offence against this Act is liable to the same penalty as an offender convicted of the offence itself unless the person proves that the person desisted of the person's own initiative from the further prosecution of the person's intention, without its fulfilment being prevented by circumstances independent of the person's will, in which case the person is liable to one-half of the penalty to which the person would otherwise be liable.

**(3)** A person may be convicted of attempting to commit an offence against this Act upon a complaint charging the person with that offence.

**Proceedings for offences**

**206.(1)** Subject to subsections (3) to (6), offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

**(2)** A prosecution for an offence against this Act may be started within 1 year from the time when the matter of complaint arose or, if the proceedings are instituted by—

- (a) the chief executive, or a person authorised by the chief executive—within 6 months after the matter of complaint comes to the knowledge of the chief executive; or
- (b) a person authorised by the commission—within 6 months after the matter of complaint comes to the knowledge of the commission;

whichever is the period later to expire.

(3) An offence against section 67, 99(1), 135(1) or (2), 140(2), 151(1) or (2), 152(1), (3) or (4), 153(1), 155(1) or (3), 177, 178, 193, 196 or 197 may be prosecuted in a summary way under the *Justices Act 1886* or upon indictment.

(4) Where proceedings for an offence against section 67, 99(1), 135(1) or (2), 140(2), 151(1) or (2), 152(1), (3) or (4), 153(1), 155(1) or (3), 177, 178, 193, 196 or 197 are taken with a view to summary conviction of the defendant, the court, if it forms the opinion that the matter should not be determined summarily or if the defendant requires that the matter be dealt with upon indictment, must abstain from determining the matter summarily.

(5) Instead of dealing with the proceedings as proceedings with a view to the committal of the defendant for trial or sentence the court may exercise in respect of the defendant for the purpose of such proceedings all the powers conferred on it by law as though the proceedings were proceedings with a view to committal in the first instance.

(6) Where the court abstains from determining a matter summarily under subsection (4), a plea of the defendant, if taken at the outset of the summary proceedings, is to be disregarded and, before committing the defendant for trial or for sentence, the court must address the defendant under the *Justices Act 1886*, section 104.

(7) A conviction upon indictment for an offence against section 67, 99(1), 135(1) or (2), 140(2), 151(1) or (2), 152(1), (3) or (4), 153(1), 155(1) or (3), 177, 178, 193, 196 or 197 is, and has effect in law as, a conviction for an indictable offence.

### **Institution of proceedings**

**207.(1)** Without derogating from subsection (2), proceedings for an offence against section 67, 105, 118, 119(1) or (2), 120(1) or (2), 121, 122(1), 135(1) or (2), 152(1), 196, 197 or 201 may be instituted by a police officer and a police officer is entitled to appear before a Magistrates Court on behalf of and act for the complainant.

(2) Proceedings for an offence against this Act may be instituted by the chief executive or by a person authorised by the commission or chief executive to institute the proceedings in a particular case.

(3) In any case where power is given to arrest an offender, it also includes power and authority to proceed against an offender by way of complaint and summons under the *Justices Act 1886*.

### **Warrant and arrest of person offending against Act**

**208.** Upon complaint on oath made before any justice by any person authorised in writing by the chief executive in that behalf that the person believes on reasonable grounds that an offence against this Act has been committed, the justice, if the justice believes on reasonable grounds that proceedings by summons would not be effective, may by warrant under the justice's hand directed to any police officer order the person named in the warrant to be arrested and brought as soon as possible before a court to be dealt with according to law.

### **Forfeiture**

**209.(1)** The court that convicts a person of an offence against this Act may order to be forfeited to the Crown—

- (a) anything seized under section 198; and
- (b) any article, records or other thing, seized and retained under section 181(1)(f) or 181(3)(c) and detained under section 181(4);

relating to or connected with the commission of the offence of which the person has been convicted.

(2) Where a person charged with an offence against this Act is not convicted of any offence, the court may order to be forfeited to the Crown any article, records or other thing, seized and retained under section 181(1)(f) or 181(3)(c) and detained under section 181(4), that was or were found in the possession or under the control of that person.

(3) Anything forfeited to the Crown under this section is to be dealt with or disposed of in such way as the Minister directs.

(4) A dealing with or forfeiture or disposal of anything under this section does not confer upon any person a right to compensation.

**Service of notices, documents etc.**

**210.(1)** Any written advice, direction, order, requirement, requisition, notice, authorisation, notification or any other document (“**document**”) under this Act is taken to have been given or issued to or served upon a person if—

- (a) it is served personally on the person to whom it is directed or on a person authorised by that person, either generally or in a particular case, to accept service of anything on that person’s behalf; or
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it; or
- (c) it is sent by post or facsimile transmission to the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it; or
- (d) where a way of service is prescribed by any other Act or law in relation to a person or class of person—it is served in the way so prescribed.

**(2)** Where any document is given, issued or served, the person who gives, issues or serves it may attend before a justice and depose on oath and in writing endorsed on a copy of the document as to the way of giving, issue or service of the document showing the date of personal service, leaving, posting, transmission or service in other way specified in subsection (1) of such document.

**(3)** Every such deposition upon production in court is evidence of the matters contained in the deposition and in the absence of evidence to the contrary is conclusive evidence of the giving, issuing or serving of such document to or on the person to whom it is directed.

**Evidentiary provisions**

**211.** In proceedings under this Act—

- (a) it is not necessary to prove the appointment of the Minister, the chairperson, a commissioner, the chief executive, any police officer, any inspector or any other officer of the division; and
- (b) a signature purporting to be that of any person in any capacity

referred to in paragraph (a) is taken to be the signature it purports to be until the contrary is proved; and

- (c) a document or writing purporting to be a copy of any document referred to in section 210(1) or of any licence granted or issued under this Act is evidence of the document of which it purports to be a copy and, in the absence of evidence to the contrary, is conclusive such evidence; and
- (d) a certificate purporting to be signed by the chief executive certifying that at a specified time or during a specified period—
  - (i) there was or was not in force under this Act any licence, approval, authorisation or exemption; or
  - (ii) a person was or was not a recognised manufacturer or supplier of gaming machines or a recognised supplier of restricted components;

is evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate.

### **Disclosure of criminal history**

**212.** A person who—

- (a) is the subject of an inquiry under section 13(6) or 29(2) or (3); or
- (b) is an applicant for a licence under part 3 or 4; or
- (c) is the secretary or an executive officer of a body corporate that is an applicant for a licence under part 3, 3A or 4; or
- (d) submits a tender in response to a call under section 144(1); or
- (e) is the secretary or an executive officer of a body corporate that submits a tender in response to a call under section 144(1); or
- (f) is required to submit information or material, or additional information or material, under section 29(5), 40(8), 60(2), 79(4), 90(2), 133(2) or 145(3);

must, if so required for the purposes of this Act, disclose—

- (g) the person's criminal history with respect to contraventions of any provision of law, whether committed in Queensland or

elsewhere; and

- (h) convictions recorded against the person in respect of contraventions of any provision of law, whether committed in Queensland or elsewhere, that under any law are taken not to be convictions.

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

### **Refund of amounts in certain circumstances**

**213.** The chief executive may—

- (a) refund amounts paid to the chief executive in error; and
- (b) refund a fee paid relative to an application under this Act where—
  - (i) in the opinion of the chief executive no substantial expense has been incurred by the chief executive in regard to such application; and
  - (ii) the applicant, or other person acceptable to the chief executive, makes a written request for the application not to proceed.

### **Approval of forms**

**213A.** The chief executive may approve forms for use under this Act.

### **Alternatives to forms**

**214.(1)** The chief executive may instead of requiring any report to be made in the approved form, approve the submission of information the subject of the report by any other method or medium of storage considered appropriate by the chief executive.

**(2)** Where under subsection (1) the chief executive approves the submission of information by an alternative method or medium of storage, the submission of information by the alternative method or medium has the same effect as if it had been made in the approved form.

**Regulation making power**

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

**(2)** A regulation may be made for or about—

- (a) arrangements and procedures for the taking of fingerprints and palm prints of an applicant for a repairer's licence or machine manager's licence; and
- (b) the activities of listed persons or holders of licences under this Act; and
- (d) the control of the premises of licensed repairers or licensed service contractors; and
- (e) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of gaming equipment and restricted components; and
- (f) the form and way of applications for approval of premises used in connection with the manufacture, assembly, storage or handling of gaming machines or restricted components; and
- (g) the different categories of licensed premises; and
- (h) the restrictions or entitlements which apply to different categories of licensed premises; and
- (i) any matter or thing in relation to the administration of this Act in respect of which a fee is payable and prescribing the amount of such fee; and
- (j) prescribing, where not provided in this Act, when a fee may be payable for any service or act carried out or undertaken and the amount of such fee; and
- (k) matters to enable the proper conduct of gaming; and
- (l) provision of signs and notices in licensed premises; and
- (m) the control of advertising or promotions by any licensee, recognised manufacturer or supplier of gaming machines or other person in relation to gaming machines, gaming and the conduct of gaming; and
- (n) applications and fees with respect to the approval of electronic

- monitoring and centralised credit systems; and
- (o) the keeping of accounts with financial institutions by licensees; and
  - (p) supplying gaming equipment; and
  - (q) identification of machine managers and employees of licensees; and
  - (r) the conduct and proceedings of meetings of the commission; and
  - (s) offences against the regulations and prescribing the amount of any penalty for an offence against any regulation, provided that any such penalty must not exceed 20 penalty units; and
  - (t) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed or where the method of prescription is not otherwise provided; and
  - (u) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

**Certain directions of Minister subordinate legislation etc.**

**216.(2)** Directions given by the Minister under sections 24(5) and 25(1)(e) are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.

**Approval of chief executive may be conditional**

**217.** Any approval of the chief executive under this Act may be subject to conditions.

## PART 11—TRANSITIONALS

### **Chief executive to supply gaming machines etc. until there is a licensed operator**

**218.(1)** This section applies only until a person becomes the holder of an operator's licence.

(2) Subject to subsections (4) and (5) and section 57, the chief executive must supply to a licensee the number or increased number of gaming machines decided under section 40(12) or 56(5).

(3) The gaming machine type, game, gaming token denomination and betting unit of a gaming machine supplied under subsection (2) are to be as the chief executive decides.

(4) If at any time a sufficient number of gaming machines is not available to enable the chief executive to comply with subsection (2), the chief executive may supply to a licensee a number less than the number decided.

(5) The chief executive must supply the balance of the gaming machines as soon as possible after a sufficient number of gaming machines becomes available.

### **Gaming machine tax for June 1997**

**219.** To remove any doubt, it is declared that any monthly rental fees, gaming machine tax and gaming machine community benefit levies that would have been payable for the month of June 1997 if the *Gaming Machine Amendment Act 1997* had not commenced together with any penalties payable in relation to the late payment of the fees, tax or levies are payable as if the *Gaming Machine Amendment Act 1997* had not commenced.

### **Recovery of certain amounts outstanding at 30 June 1997**

**220.(1)** Section 176, as in force immediately before the *Gaming Machine Amendment Act 1997* commenced, applies to monthly rental fees, gaming machine tax and levies payable for a period before 1 July 1997 and remaining unpaid after 30 June 1997.

(2) Also, section 176, as in force immediately before the *Gaming Machine Amendment Act 1997* commenced, applies to a penalty payable in relation to a fee, tax or levy mentioned in subsection (1).

### **Payment of certain amounts received after 30 June 1997**

**221.** Despite section 174—

- (a) any money received after 30 June 1997 for monthly rental fees, gaming machine tax or levies payable before 1 June 1997, together with any penalties payable in relation to the late payment of the fees, tax or levies, is to be taken to be gaming machine tax and must be paid into the consolidated fund; and
- (b) any money received after 31 July 1997 for monthly rental fees, gaming machine tax or levies payable for the month of June 1997, together with any penalties payable in relation to the late payment of the fees, tax or levies, is to be taken to be gaming machine tax and must be paid into the consolidated fund.

### **Inspectors and officers of the division**

**222.** To remove any doubt, it is declared that a person who was an inspector or an officer of the division under this Act immediately before the commencement of the *Gaming Machine Amendment Act 1997*, is taken to be an inspector or officer of the division appointed under this Act after the commencement.

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## ENDNOTES

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 December 1997. Future amendments of the Gaming Machine Act 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

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

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

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

Reprint No.	Amendments included	Reprint date
1	to Act No. 68 of 1992	1 February 1993
2	to Act No. 63 of 1993	24 December 1993
3	to Act No. 58 of 1995	3 April 1996
3A	to Act No. 47 of 1996	3 December 1996
3B	to Act No. 34 of 1997	29 August 1997

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	3
Corrected minor errors	3
Obsolete and redundant provisions	3
Renumbered provisions	1

## 6 List of legislation

### **Gaming Machine Act 1991 No. 7**

date of assent 27 March 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 18 May 1991 (proc pubd gaz 18 May 1991 p 258)

as amended by—

### **Gaming Machine Amendment Act 1992 No. 35**

date of assent 2 July 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 2 July 1992 (1992 SL No. 213)

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 2**

date of assent 7 December 1992

commenced on date of assent

### **Gaming Machine Amendment Act 1993 No. 63**

date of assent 23 November 1993

ss 1–3 commenced on date of assent  
 remaining provisions commenced 1 December 1993 (1993 SL No. 417)

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3, sch 2**

date of assent 10 May 1994  
 commenced on date of assent

**Liquor Amendment Act (No. 2) 1994 No. 59 ss 1–2, 89 sch 3**

date of assent 4 November 1994  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 2 December 1994 (1994 SL No. 409)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3, sch 1**

date of assent 1 December 1994  
 commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Keno Act 1996 No. 47 ss 1, 244 sch 3**

date of assent 15 November 1996  
 commenced on date of assent

**Gaming Machine Amendment Act 1997 No. 24**

date of assent 22 May 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 1997 (1997 SL No. 162)

**Lotteries Act 1997 No. 34 ss 1–2, 233**

date of assent 18 July 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 August 1997 (1997 S No. 230)

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3 sch**

date of assent 5 December 1997  
 commenced on date of assent

## 7 List of annotations

**This reprint has been renumbered—see table of renumbered provisions in endnote 8.**

### Commencement

s 2 om R3 (see RA s 37)

**Definitions**

- prov hdg** sub 1997 No. 24 s 4(1); 1997 No. 81 s 3 sch  
**s 3** amd 1992 No. 35 s 4(3), sch
- def “**accepted representations**” ins 1997 No. 24 s 4(3)  
 def “**approved form**” ins 1995 No. 58 s 4 sch 1  
 def “**approved financier**” ins 1997 No. 24 s 4(3)  
 def “**arrangement**” ins 1993 No. 63 s 4(2)  
 def “**assessment period**” ins 1997 No. 24 s 4(3)  
 def “**associate**” ins 1993 No. 63 s 2 sch  
 def “**basic monitoring services**” ins 1997 No. 24 s 4(3)  
 def “**betting unit**” ins 1993 No. 63 s 4(2)  
 def “**chief executive**” ins 1992 No. 35 s 4(2)  
     om 1997 No. 24 s 61 sch  
 def “**club**” om 1992 No. 35 s 4(1)  
     ins 1992 No. 35 s 4(2)  
 def “**club liquor licence**” ins 1992 No. 35 s 4(2)  
     sub 1993 No. 63 s 4  
 def “**conduct of gaming**” ins 1993 No. 63 s 2 sch  
 def “**conviction**” ins 1993 No. 63 s 4(2)  
 def “**deputy director**” amd 1992 No. 35 sch  
     om 1997 No. 24 s 61 sch  
 def “**director**” amd 1992 No. 35 sch  
     om 1997 No. 24 s 61 sch  
 def “**disclosed associate**” ins 1997 No. 24 s 4(3)  
 def “**disclosure affidavit**” ins 1997 No. 24 s 4(3)  
 def “**division**” amd 1992 No. 35 sch  
 def “**executive officer**” amd 1992 No. 35 sch  
 def “**financial institution**” amd 1992 No. 35 sch  
 def “**financial year**” amd 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch  
 def “**Gaming Act**” ins 1996 No. 47 s 244 sch 3  
     sub 1997 No. 34 s 233(2)  
 def “**gaming machine type**” om 1992 No. 35 s 4(1)  
     ins 1992 No. 35 s 4(2)  
 def “**gaming trainer**” ins 1997 No. 24 s 4(3)  
 def “**general associate**” ins 1997 No. 24 s 4(3)  
 def “**general liquor licence**” ins 1992 No. 35 s 4(2)  
 def “**gross monthly turnover**” om 1997 No. 24 s 4(2)  
 def “**information notice**” ins 1997 No. 24 s 4(3)  
 def “**interested person**” ins 1997 No. 24 s 4(3)  
 def “**key monitoring employee**” ins 1997 No. 24 s 4(3)  
 def “**key officer**” ins 1997 No. 24 s 4(3)  
 def “**licensed key monitoring employee**” ins 1997 No. 24 s 4(3)  
 def “**licensed operator**” ins 1997 No. 24 s 4(3)  
 def “**Licensing Commission**” om 1992 No. 35 s 4(1)  
 def “**linked jackpot arrangement**” amd 1992 No. 35 sch  
 def “**liquor**” om 1992 No. 35 s 4(1)  
     ins 1992 No. 35 s 4(2)  
 def “**liquor licence**” ins 1992 No. 35 s 4(2)  
     sub 1993 No. 63 s 4

- def **“liquor licensing authority”** ins 1992 No. 35 s 4(2)
- def **“machine manager”** amd 1993 No. 63 s 2 sch
- def **“Magistrates Court”** om 1992 No. 35 s 4(1)
- def **“metered bets”** ins 1997 No. 24 s 4(3)
- def **“metered payouts”** ins 1997 No. 24 s 4(3)
- def **“metered win”** ins 1997 No. 24 s 4(3)
- def **“Minister”** om 1992 No. 35 s 4(1)
- def **“monthly taxable metered win”** ins 1997 No. 24 s 4(3)
- def **“multiple site jackpot increments”** ins 1997 No. 24 s 4(3)
- def **“non-proprietary club”** om 1992 No. 35 s 4(1)  
ins 1992 No. 35 s 4(2)
- def **“play a gaming machine”** ins 1993 No. 63 s 2 sch
- def **“police officer”** om 1992 No. 35 s 4(1)
- def **“prescribed”** om 1992 No. 35 s 4(1)
- def **“prescribed liquor licence”** ins 1992 No. 35 s 4(2)  
sub 1993 No. 63 s 4
- def **“reasonably suspects”** ins 1997 No. 24 s 4(3)
- def **“registered company auditor”** ins 1997 No. 24 s 4(3)
- def **“show cause notice”** ins 1997 No. 24 s 4(3)
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- def **“Under Treasurer”** om 1992 No. 35 s 4(1)

**Meaning of “conduct of gaming”**

- prov hdg** ins 1993 No. 63 s 2 sch
- s 4** (prev s 3(2)) renum 1993 No. 63 s 2 sch

**Approval of terminating date for financial year**

- prov hdg** ins 1993 No. 63 s 2 sch
- s 5** (prev s 3(3)) renum 1993 No. 63 s 2 sch  
amd 1997 No. 24 s 61 sch

**Meaning of “associate”**

- prov hdg** ins 1993 No. 63 s 2 sch
- s 6** (prev s 3(4)) renum 1993 No. 63 s 2 sch  
amd 1997 No. 24 s 5

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

- prov hdg** ins 1993 No. 63 s 2 sch
- s 7** (prev s 3(5)) renum 1993 No. 63 s 2 sch

**Acceptable evidence of age**

- s 9** ins 1992 No. 35 s 5

**Termination of appointment of commissioners**

- s 17** amd 1992 No. 35 sch

**Acting appointments**

- s 19** amd 1992 No. 35 sch

**Meetings**

- s 20** amd 1992 No. 35 sch

**Resources**

- s 21** amd 1997 No. 24 s 61 sch

**Decisions or determinations of commission**

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**Appeals to Minister**

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s 24 amd 1994 No. 87 s 3 sch 1; 1995 No. 58 s 4 sch 1; 1997 No. 24 ss 6(2)–(4), 61 sch

**Minister's determination of appeals**

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s 25 amd 1992 No. 35 sch; 1997 No. 24 ss 7(2), 61 sch

**Appeals to Magistrates Court**

s 25A ins 1997 No. 24 s 8

**Starting appeal**

s 25B ins 1997 No. 24 s 8

**Stay of operations of decisions**

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**Hearing procedures**

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s 25E ins 1997 No. 24 s 8

**Appeal to District Court**

s 25F ins 1997 No. 24 s 8

**Inspectors**

s 26 amd 1992 No. 35 sch; 1996 No. 37 s 147 sch 2  
sub 1997 No. 24 s 61 sch

**Appointment of other persons**

s 27 amd 1992 No. 35 sch; 1996 No. 37 s 147 sch 2

**Assistance within department**

prov hdg amd 1992 No. 35 sch

s 28 amd 1992 No. 35 sch

**Officers of division to be of good repute**

s 29 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

**Machine Gaming Division**

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**Illness etc. of director**

s 32 om 1997 No. 24 s 61 sch

**Director's power to delegate**

s 33 sub 1992 No. 35 sch  
om 1997 No. 24 s 61 sch

**Police assistance**

**s 34** amd 1992 No. 35 sch; 1993 No. 63 s 5; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch

**Secrecy**

**s 35** amd 1992 No. 35 sch; 1994 No. 87 s 3 sch 1; 1995 No. 58 s 4 sch 1; 1996 No. 47 s 244 sch 3; 1997 No. 24 ss 9, 61 sch

**Identification cards**

**s 36** amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch

**Director is agent of Crown**

**s 37** om 1997 No. 24 s 61 sch

**Gaming lawful and does not constitute nuisance**

**s 38** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**s 39** amd 1992 No. 35 s 6; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch

**Consideration of applications**

**s 40** amd 1992 No. 35 sch; 1993 No. 63 ss 6, 2 sch; 1994 No. 87 s 3 sch 1; 1997 No. 24 s 61 sch

**Clubs may be restricted to only 1 gaming machine licence**

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**Changes in circumstances of applicants for and holders of licences**

**s 42** ins 1993 No. 63 s 7; 1997 No. 24 s 61 sch

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**s 43** amd 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch

**Schedule of gaming machines**

**s 44** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1994 No. 87 s 3 sch 1; 1997 No. 24 ss 10, 61 sch

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**s 46** amd 1997 No. 24 s 61 sch

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**s 48** amd 1992 No. 35 sch

**Imposition or variation of conditions**

**s 49** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**s 50** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

**Renewal and continuance of gaming machine licences**

**s 51** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch

**Gaming machine licences cannot be transferred**

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

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s 61 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**s 99** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

**Gaming equipment not to be an annoyance etc.**

**s 100** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**s 101** amd 1992 No. 35 sch; 1997 No. 24 s 25

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s 116      amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1; 1997  
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**Seizure of document wrongly used as evidence of age**

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**s 123** ins 1992 No. 35 s 12

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**s 130** amd 1994 No. 87 s 3 sch 1; 1997 No. 24 s 61 sch

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**s 131** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**s 133** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**s 134** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch

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**s 135** amd 1992 No. 35 sch; 1997 No. 24 s 28

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s 188      amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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**Exemption of devices etc.**

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s 193      amd 1992 No. 35 sch

**Financial connections and interests of officers of the division**

s 194      amd 1992 No. 35 sch; 1993 No. 63 s 2 sch

**Reporting of accounting discrepancies and criminal activity**

s 195      amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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s 196      amd 1992 No. 35 sch

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s 209 amd 1992 No. 35 sch

**Service of notices, documents etc.**

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