



# Gaming Machine Act 1991

Current as at [Not applicable]

## Indicative reprint note

This is an ***unofficial*** version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act.***

Amendments to this Act are also included in the COVID-19 Emergency Response and Other Legislation Amendment Bill 2020. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020—26 November 2020.

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Queensland

# Gaming Machine Act 1991

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**Not authorised—indicative only**

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# Gaming Machine Act 1991

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

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## Part 1 Preliminary

### 1 Short title

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

### 1A Object

- (1) The object of this Act is to ensure that, on balance, the State and the community as a whole benefit from gaming machine gambling.
- (2) The balance is achieved by allowing gaming machine gambling subject to a system of regulation and control designed to protect players and the community through—
  - (a) ensuring the integrity and fairness of games; and
  - (b) ensuring the probity of those involved in the conduct of gaming machine gambling; and
  - (c) minimising the potential for harm from gaming machine gambling.

### 2 Definitions

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

### **3 Meaning of *conduct of gaming***

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 system 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.

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

The commissioner 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.

### **5 Meaning of *associate***

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, repair or testing 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 an individual 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, whether formal or informal, to act;
  - (xii) any body corporate in which the person has a substantial holding;
  - (xiii) if the person is a body corporate—a person who has a substantial holding in the body corporate;
  - (xiv) any person who is named in an affidavit forwarded or lodged by the person under section 92, 115, 118, 130, 154 or 210;

- (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 have a substantial holding 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 5% of the voting power in the body corporate or holds interests in not less than 5% of the issued shares in the body corporate.

## **6 Meaning of *control action* under the Corporations Act**

For this Act, a person is affected by *control action* under the Corporations Act if—

- (a) the person has executed a deed of company arrangement under that Act; or
- (b) the person is the subject of a winding-up (whether voluntarily or under a court order) under that Act; or
- (c) the person is the subject of an appointment of an administrator or liquidator under that Act; or
- (d) there is, under that Act, a controller for property of the person.

## **7 Meaning of *due date for payment***

- (1) This section applies if—
  - (a) a contract is entered into between a licensed supplier and a licensee under which an amount (other than a basic monitoring fee) is payable by the licensee to the licensed supplier; and
  - (b) the contract does not state a due date for payment of the amount.
- (2) This section also applies if—

- 
- (a) a contract is entered into between a licensed monitoring operator and a licensee under which a basic monitoring fee is payable by the licensee to the operator; and
  - (b) the contract does not state a due date for payment of the fee.
- (3) In this Act, a reference to the *due date for payment* of the amount or fee is a reference to the date that is 1 month after the incurring of liability for payment of the amount or fee.

## 9 Meaning of *jackpot payout*

For this Act, a *jackpot payout* is a payment by a licensee or licensed monitoring operator to a player for a winning result or promotions on a gaming machine if—

- (a) the payment does not increase the credit meter of the gaming machine; and
- (b) the payment is not discharged from the hopper; and
- (c) for promotions, the gaming machine is operated under an approval under section 287 for a linked jackpot arrangement.

## 10 Meaning of *metered payouts*

- (1) For this Act, *metered payouts*, for a licensed premises for an assessment period, means the metered amount won by players for winning results or promotions on gaming machines on the premises in the assessment period.
- (2) In this section, the metered amount won does not include an amount payable under this Act from an approved trust account.

## 11 Meaning of *percentage return to player*

For this Act, the *percentage return to player*, for a game, is the percentage calculated using the formula—

$$\frac{W \times 100}{B}$$

where—

*B* is the amount that will be bet if bets are made on every result in the game.

*W* is the amount that can be won, other than promotions, if all winning results in the game are obtained.

## 12 Meaning of *play a gaming machine*

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.

## 13 Act binds the Crown

This Act binds the Crown.

## 13A Declaration for Commonwealth Act

The following are declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth)—

- (a) an entitlement;
- (b) an operating authority.

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**14 Acceptable evidence of age**

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**

**Division 1 Commissioner for Liquor and Gaming**

**15 Establishment of commissioner**

- (1) There is to be a Commissioner for Liquor and Gaming (the *commissioner*).
- (2) The chief executive must appoint a senior executive of the department to be the commissioner.
- (3) A person may hold appointment as the commissioner and hold an office as a senior executive of the department under the *Public Service Act 2008*.

**16 Functions of commissioner**

The commissioner has the functions given to the commissioner—

- (a) under this or another Act; and
- (b) by the Minister.

**17 Powers of commissioner**

- (1) The commissioner has the powers given to the commissioner under this or another Act.
- (2) The commissioner may do all things necessary or convenient to be done in performing the commissioner's functions or exercising the commissioner's powers.

[s 18]

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- (3) The commissioner may on the commissioner's own initiative, and must if asked by the Minister, provide the Minister with advice on—
  - (a) the operation of this Act or any other gaming Act that assigns functions to the commissioner; or
  - (b) issues related to gambling (including the identification of issues requiring further research) under this Act or another Act that assigns functions to the commissioner.

## **18 Commissioner may make guidelines**

- (1) The commissioner may make guidelines.
- (2) Without limiting subsection (1), a guideline may give guidance about—
  - (a) the attitude the commissioner is likely to adopt on a particular matter; or
  - (b) how the commissioner administers this Act.

*Examples for subsection (2)—*

- 1 The commissioner might make a guideline stating how the commissioner decides applications for a decrease under section 86 for category 1 licensed premises.
  - 2 The commissioner might make a guideline about dealing with operating authorities under this Act.
- (3) A guideline may be replaced or varied by a later guideline made under this section.
  - (4) The commissioner must keep copies of a guideline made under this section available for inspection by persons and permit a person to obtain a copy of a guideline, or an extract from a guideline, free of charge.
  - (5) For subsection (4)—
    - (a) copies of the guideline—
      - (i) must be kept at the head office and any regional office of the department; and

- (ii) may be kept at any other place the commissioner considers appropriate; and
- (b) the copies kept under paragraph (a) must be available for inspection during office hours on business days for the office or place.

## **19 Commissioner may make standards**

- (1) The commissioner may make standards about matters of a technical nature that—
  - (a) relate to a licensee’s gaming operations; and
  - (b) help the licensee conduct the gaming operations in compliance with this Act.
- (2) A standard is a statutory instrument within the meaning of the *Statutory Instruments Act 1992*.

## **20 Notice and availability of standard**

- (1) The commissioner must, as soon as practicable after making a standard under section 19(1), give each licensee written notice of the making of the standard.
- (2) The notice must include the standard or a brief description of the standard.
- (3) If a standard concerns all licensees or a class of licensees, the notice may be included as a part of another publication of the commissioner given to the licensees or members of the class of licensees.
- (4) The notice may be given in electronic form.
- (5) The commissioner must keep a copy of each standard, as in force from time to time, available for inspection free of charge by members of the public at—
  - (a) the department’s head office; and
  - (b) other places the commissioner considers appropriate.

- (6) Also, the commissioner must publish each standard, as in force from time to time, on the department's website.

## **Division 2                      Review and appeals**

### **29            Who may apply for a review by tribunal**

- (1) A person who is or was an applicant for, or a holder of, a licence under this Act and is aggrieved by a decision or determination of the commissioner stated in schedule 1, part 1 may apply, as provided under the QCAT Act, to the tribunal for a review of the decision or determination.
- (2) A person may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of a licensee stated in schedule 1, part 2.
- (3) A person who may be adversely affected by an approval under section 54(7) and to whom a notice has been given under section 54(8) may apply, as provided under the QCAT Act, to the tribunal for a review of the decision or determination.
- (4) A person who seeks the commissioner's approval for section 231 or 287 may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of the commissioner refusing to give the approval.
- (5) A person who submits a gaming machine type or game to the commissioner under section 281 for evaluation may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of the commissioner rejecting the gaming machine type or game.
- (6) The owner of an article, record or other thing seized by an inspector may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of an inspector under section 331 resulting in the thing being forfeited.

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**30 Effect of reconsidering a decision after application to QCAT**

- (1) This section applies if the commissioner or an inspector amends, or sets aside and substitutes another decision for, an original decision (the *reconsidered decision*) as a consequence of—
  - (a) reconsidering an original decision at the invitation of QCAT under the QCAT Act, section 23(1); or
  - (b) reconsidering an original decision in accordance with any direction of QCAT in relation to reconsidering the original decision.
- (2) Section 29 does not apply to the reconsidered decision.
- (3) A proceeding for a review of the original decision by the tribunal ends.
- (4) In this section—

*original decision* means a decision or determination mentioned in section 29.

**31 Tribunal to decide review on evidence before the commissioner**

- (1) In a proceeding for a review by the tribunal of a decision of the commissioner, the tribunal must—
  - (a) hear and decide the review of the decision by way of a reconsideration of the evidence before the commissioner when the decision was made; and
  - (b) decide the review of the decision in accordance with the same law that applied to the making of the original decision.
- (2) If the tribunal decides, under the QCAT Act, section 139, that a proceeding for a review of a decision should be reopened, the issues in the proceeding that are reheard, must be—
  - (a) heard and decided by way of a reconsideration of the evidence given in the proceeding for the review of the decision; and

(b) decided in accordance with the same law that applied to the making of the original decision.

(3) In this section—

*original decision* means the decision of the commissioner to which the proceeding for the review relates.

### **32 Tribunal may give leave for review to be decided on new evidence in particular circumstances**

(1) Despite section 31, the tribunal may grant a party to a proceeding for a review of a decision of the commissioner (the *decision*) leave to present new evidence if the tribunal is satisfied—

(a) the party did not know and could not reasonably be expected to have known of the existence of the new evidence before the decision; and

(b) in the circumstances, it would be unfair not to allow the party to present the new evidence.

(2) If the tribunal gives leave under subsection (1), the tribunal must—

(a) adjourn the proceedings for a stated reasonable time to allow the commissioner to reconsider the decision together with the new evidence and to allow for further submissions by affected persons; or

(b) if the tribunal considers it appropriate for the applicant to make a new application, require the applicant to make a new application to the commissioner.

(3) In this section—

*new evidence* means evidence that was not before the commissioner when the decision was made.

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**33 Appeals from tribunal only to Court of Appeal on question of law**

- (1) This section applies to a decision of the tribunal (the *tribunal decision*) in a proceeding for a review of a decision or determination mentioned in section 29.
- (2) The QCAT Act, chapter 2, part 8, division 1 does not apply to the tribunal decision.
- (3) A party to the proceeding may appeal to the Court of Appeal against the tribunal decision but only if the appeal is on a question of law.
- (4) To remove any doubt, it is declared that the QCAT Act, section 149 does not apply to the tribunal decision.

*Note—*

See the QCAT Act, sections 151 to 153, 155 and 156 for other requirements and effects of an appeal to the Court of Appeal.

**Division 3 Miscellaneous**

**49 Departmental gaming officers to be of good repute**

- (1) Departmental gaming officers are to be of good repute, having regard to character, honesty and integrity.
- (2) Before a person is appointed to be a departmental gaming officer, the commissioner may investigate the person for the purpose of finding out whether the person is of good repute.
- (3) At any time the commissioner may cause to be undertaken such investigations as the commissioner considers are necessary in order to be satisfied that a departmental gaming officer, having regard to the matters specified in subsection (1), is suitable to be a departmental gaming officer.
- (4) The commissioner may, either verbally or by written notice, require any officer, to whom investigations under subsection (3) relate, to submit such information or material as the commissioner considers is necessary.

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- (5) The officer must comply with the commissioner's requirement.

Maximum penalty for subsection (5)—200 penalty units or 1 year's imprisonment.

## 50 Delegations

- (1) The Minister may delegate the Minister's designated powers to—
- (a) the commissioner; or
  - (b) an appropriately qualified inspector or an appropriately qualified public service employee.
- (2) The Minister may delegate to the commissioner the Minister's power under section 315(3) to cause amounts to be paid out of the gambling community benefit fund for the benefit of the community.
- (3) The commissioner may delegate the commissioner's designated powers to—
- (a) an appropriately qualified public service employee; or
  - (b) an appropriately qualified inspector.
- (4) A delegation of a power under subsection (3) may permit the subdelegation of the power to an appropriately qualified public service employee.
- (5) In this section—

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

*Example of standing—*

a person's classification level in the public service

*designated powers—*

- (a) of the Minister, means—
- (i) the powers of the Minister under sections 135 and 211; or

- (ii) the power of the Minister to give a direction for section 151(3)(b); and
- (b) of the commissioner, means the powers of the commissioner under this Act, other than sections 97(12) and (13), 98 and 147.

### **53 Criminal history reports**

- (1) This section applies in relation to an investigation of a person for sections 49(2) and (3), 57(2)(a), 93(1), 136, 200(2)(a) and 212.
- (2) If the commissioner asks the police commissioner for a written report on the person's criminal history, the police commissioner must give the report to the commissioner.
- (3) The report must contain—
  - (a) relevant information in the police commissioner's possession; and
  - (b) relevant information the police commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
  - (c) other relevant information to which the police commissioner has access.

### **53A Police commissioner to notify changes in criminal history**

- (1) This section applies if—
  - (a) the commissioner gives the police commissioner the name of a relevant person for this section; and
  - (b) the police commissioner reasonably suspects a person who is charged with an offence is the relevant person.
- (2) The police commissioner must notify the commissioner about the change in the person's criminal history.
- (3) The notice must state the following—

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- (a) the person's name and address;
  - (b) the person's date of birth;
  - (c) the offence the person is charged with;
  - (d) particulars of the offence;
  - (e) the date of the charge.
- (4) The commissioner may confirm the suspicions of the police commissioner under subsection (1).
- (5) In this section—
- relevant person* means—
- (a) a departmental gaming officer; or
  - (b) a licensed person; or
  - (c) a licensee who is an individual; or
  - (d) an associate, of a licensee, who is an individual; or
  - (e) the secretary or executive officer of a licensed supplier;  
or
  - (f) an individual identified by the Minister as being a business or executive associate of a licensed supplier.

#### **54 Confidentiality of information**

- (1) A person who is, or was, the commissioner must not disclose confidential information gained by the person in performing a function or exercising a power under this Act or another Act.
- Maximum penalty—200 penalty units or 2 years imprisonment.
- (2) However, the person may disclose confidential information if—
- (a) the disclosure is for a purpose under this Act or another Act; or
  - (b) the disclosure is otherwise required or permitted by law.

- (3) A person who is, or was, a departmental officer or an inspector must not disclose confidential information gained by the person in performing functions under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (4) A person who is, or was, a licensed monitoring operator must not disclose information about a licensee's operations gained by the person in carrying out the person's operations as a licensed monitoring operator.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (5) A person who is, or was, employed by a licensed monitoring operator in any capacity must not disclose information about a licensee's operations gained by the person in carrying out the person's functions in that capacity.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (6) However, a person mentioned in subsection (3), (4) or (5) may disclose confidential or other information if—

- (a) the disclosure is for a purpose under this Act or a gaming Act; or
- (b) the disclosure is otherwise required or permitted by law; or
- (c) the commissioner approves the disclosure under this section.

- (7) The commissioner may approve a disclosure of confidential or other information by a person mentioned in subsection (3), (4) or (5) to—

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

- (8) Before giving an approval for subsection (7)(c), the commissioner must—

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- (a) give written notice of the proposed approval to each person whom the commissioner considers is likely to be affected adversely by the disclosure; and
  - (b) give the person the opportunity to make a submission about the proposed approval within the period, of at least 14 days, stated in the notice.
- (9) If, under an approval given by the commissioner, a person mentioned in subsection (3), (4) or (5) discloses confidential or other information to an entity or person, the entity or person, and any employee or other person under the control of the entity or person, are taken to be persons to whom the subsection applies and to have gained the confidential or other information in the way mentioned in the subsection.
- (10) In this section—
- confidential information*** means information, other than information that is publicly available, about—
- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
  - (b) a person making an application under this Act.

## **Part 3                      Gaming machine licences**

### **Division 1                Authorisation of gaming machine gambling**

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

- (1) Despite any other Act or law—
- (a) the commissioner may, having regard to the information or material the commissioner considers 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.

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- (2) Without limiting subsection (1)(a), the information or material the commissioner may have regard to includes—
    - (a) information or material about social and community issues; and
    - (b) relevant guidelines made by the commissioner under section 18.
  - (3) 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.

## **Division 2                      General requirements for    applications of significant    community impact**

### **55A      Applications of significant community impact**

- (1) The following applications are applications of significant community impact—
  - (a) an application for a gaming machine licence including an application to grant a gaming machine licence in place of a licence to be surrendered under section 95;
  - (b) an application for additional licensed premises;
  - (c) an application to have the approved number of gaming machines for licensed premises increased by a significant number (to be fixed under a regulation);
  - (d) another application that the commissioner designates, by written notice to the applicant, as an application of significant community impact.
- (2) The commissioner must—
  - (a) make available for inspection, at the department's head office, a list of all applications currently before the commissioner that are of significant community impact; and

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- (b) publish notice of each of the applications on the department's website.
- (3) The list must include—
  - (a) the nature of each application; and
  - (b) the location of premises to which each application relates.

**55B Community impact statement and statement of responsible gambling initiatives required for application of significant community impact**

- (1) An application of significant community impact must be accompanied by—
  - (a) a community impact statement; and
  - (b) a statement of responsible gambling initiatives for the licensed premises or proposed licensed premises.
- (2) The purpose of a community impact statement is to help the commissioner assess the social and economic implications of the grant of the application.
- (3) The purpose of the statement of responsible gambling initiatives is to help the commissioner assess the adequacy of the applicant's approach to encouraging responsible gambling.
- (4) In preparing a community impact statement or a statement of responsible gambling initiatives, the applicant must have regard to relevant guidelines made by the commissioner under section 18.
- (5) A community impact statement and a statement of responsible gambling initiatives are to be regarded as part of the supporting material for an application.

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**55C Advertisement of application of significant community impact**

- (1) An application of significant community impact must be advertised as required under this section.
- (2) The applicant must—
  - (a) display a copy of the notice on the premises to which the application relates on a sign the dimensions of which (including dimensions of the print) are approved by the commissioner, generally or in a particular case; and
  - (b) ensure the copy is displayed conspicuously for 28 days immediately before the last day for the filing of community comments on the application.
- (3) If the applicant is also making an application under the *Liquor Act 1992*, the commissioner may approve a composite notice to be published and displayed under subsection (2) and the corresponding provision of the *Liquor Act 1992*.
- (4) The applicant must give to the commissioner evidence of satisfying the publication and display requirements under this section.

**55D Community comments**

- (1) If an application is advertised as required by section 55C, any member of the public may comment on the application, by writing filed with the commissioner on or before the last day for filing comments as specified in the relevant notice under section 55C(2).

*Examples of subsection (1)—*

- 1 A member of the public might comment on how he or she expects the grant of the application would contribute to, or detract from, a sense of community in the relevant locality.
- 2 A member of the public might comment on the effect the grant of the application might have for persons in, or travelling to or from, an existing or proposed place of public worship, QEC service premises, education and care service premises or school.

- 3 A member of the public might comment on the effect the grant of the application would have on the amenity or character of the locality to which it relates.
- (2) The commissioner may disregard comments on subjects that lie beyond a scope indicated in the commissioner's guidelines mentioned in section 55B(4).

*Examples of subsection (2)—*

- 1 The commissioner's guidelines might exclude comments based on the morality of gambling or the commentator's personal views about gambling.
  - 2 The commissioner's guidelines might exclude comments of a kind that might be more appropriately considered and dealt with under the *Liquor Act 1992*.
  - 3 The commissioner's guidelines might exclude commentary of a statistical nature about the adverse effects of gambling in locations unrelated to the location to which the application relates.
- (3) Comments may be made individually or collectively by a group of members of the public.
  - (4) In this section—

***member of the public*** means an adult individual, corporation or other organisation, that in the commissioner's opinion—

    - (a) has a proper interest in the locality concerned; and
    - (b) is likely to be affected by the grant of the application.

### **55E Procedure on receipt of community comments**

- (1) The commissioner must give to the applicant written notice of all community comments properly made on an application advertised under section 55C.
- (2) The notice—
  - (a) must include a copy of the comments; and
  - (b) must be given to the applicant within 14 days after the last day for filing comments as specified in the relevant notice under section 55C(2).

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**55F Commissioner's power to invite representations**

The commissioner may invite representations on an application of significant community impact from—

- (a) the local government for the area in which the premises for which the licence is sought are situated; and
- (b) from any other entity that has, in the commissioner's opinion, a proper interest in the matter.

*Example of paragraph (b)—*

The commissioner might invite representations on the application from the local member of the Legislative Assembly.

**55FA When notice of decision must be given to particular entities**

- (1) This section applies in relation to a decision made by the commissioner on an application of significant community impact if—
  - (a) a member of the public made comments under section 55D about the application and the comments were not disregarded by the commissioner under that section; or
  - (b) an entity made representations under section 55F about the application.
- (2) The commissioner must give the member of the public or entity written notice of the decision.
- (3) However, if the comments about the application were made under section 55D collectively by a group of members of the public—
  - (a) the commissioner may give the notice mentioned in subsection (2) to a person stated in the comments to be the sponsor for the comments instead of each member of the group; and
  - (b) a notice given to the sponsor for the comments under paragraph (a) is taken to have been given to each member of the group.

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- (4) The commissioner must give a notice under subsection (2) at the same time as notice of the decision is given to the applicant for the application of significant community impact.
- (5) In this section—  
*member of the public* see section 55D(4).

**55FB Commissioner must publish information about particular decisions on website**

- (1) This section applies in relation to a decision made by the commissioner on an application of significant community impact advertised under section 55C if—
  - (a) a member of the public made comments under section 55D objecting to the approval of the application and the comments were not disregarded under that section; or
  - (b) an entity made representations under section 55F objecting to the approval of the application.
- (2) The commissioner must publish on the department's website the following information in relation to the decision—
  - (a) the nature of the application;
  - (b) the location of the premises to which the application relates;
  - (c) the day the decision was made;
  - (d) whether the decision was to approve or refuse the application;
  - (e) a brief summary of the reasons for the decision.
- (3) However, the information that is published must not include any of the following—
  - (a) sensitive information about a person;
  - (b) information the commissioner reasonably considers is commercially sensitive;
  - (c) information about a person's criminal history given to the commissioner under section 53 or 53A.

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- (4) The information must be published under subsection (2)—
- (a) as soon as practicable, but no later than 28 days, after the decision is made; and
  - (b) for a period of at least 3 months.
- (5) A failure to comply with this section does not affect the validity of the decision.
- (6) In this section—
- member of the public* see section 55D(4).
- sensitive information*, about a person, means information about—
- (a) the person’s reputation; or
  - (b) the person’s history of behaviour or attitude in relation to the management and discharge of the person’s financial obligations.

**55G Waiver or variation of requirement of this division**

The commissioner may waive or vary a requirement under this division, other than a requirement under section 55FA or 55FB, if the commissioner is satisfied compliance with the requirement is not necessary or the requirement may be relaxed—

- (a) because the application does not involve a significant change to the licensed premises or the nature or extent of the gaming carried on from the licensed premises; or
- (b) because of the remote location of the premises; or
- (c) because the purpose of the requirement has been, or can be, achieved by other means; or
- (d) because of other special circumstances.

## **Division 3                      Applications for gaming machine licences**

### **55H    Limit on category 2 gaming machine licences for clubs**

- (1) A club can not hold more than 1 gaming machine licence for category 2 licensed premises (a *category 2 gaming machine licence*).
- (2) If an application for more than 1 category 2 gaming machine licence is made by a club, the commissioner must refuse to grant the application.
- (3) If an application for a category 2 gaming machine licence is made by a club that already holds a category 2 gaming machine licence, the commissioner must refuse to grant the application.
- (4) Subsection (3) does not apply to an application for a category 2 gaming machine licence mentioned in section 56B(1) or (2).

### **56        Application for gaming machine licences**

- (1) An application for a gaming machine licence may be made only by—
  - (a) a body corporate that holds a community club licence; or
  - (b) the holder of a commercial hotel licence; or
  - (c) the holder of a prescribed liquor licence; or
  - (d) a body corporate that—
    - (i) has applied to become the holder of a commercial hotel licence or a community club licence; or
    - (ii) is the proposed transferee in a liquor licence transfer application relating to a community club licence; or
  - (e) an individual who has applied to become the holder of a commercial hotel licence; or

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- (f) the proposed transferee in a liquor licence transfer application relating to a commercial hotel licence or prescribed liquor licence; or
  - (g) a subsidiary operator, other than a subsidiary operator that is a non-proprietary club.
- (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 or the liquor licence transfer application naming the applicant as the proposed transferee; or
  - (c) if the application is made by an applicant mentioned in subsection (1)(f)—category 1 licensed premises specified in the liquor licence transfer application naming the applicant as the proposed transferee; or
  - (d) if the application is made by an applicant mentioned in subsection (1)(g)—the part of commercial special facility premises for which the applicant is a subsidiary operator.
- (3) An application for a gaming machine licence made by a body corporate that holds, or has applied to become the holder of, a community club licence may relate to 2 or more premises.
- (4) Except as provided under subsection (3), an application for a gaming machine licence may only relate to single premises.
- (5) An application for the grant of a gaming machine licence—
- (a) must be made in the approved form; and
  - (b) for an application by an individual—must be signed by the applicant; and
  - (c) for an application by a body corporate—must be signed in the appropriate way; and

- (d) must contain or be accompanied by the information, records, reports, documents and writings relating to the application and applicant as are determined by the commissioner; and
  - (e) must be forwarded to or lodged with the commissioner; and
  - (f) must be accompanied by the fee prescribed.
- (6) In subsection (2)(d), a reference to the part of commercial special facility premises for which an applicant for a gaming machine licence mentioned in subsection (1)(g) is a subsidiary operator is a reference to—
- (a) the part of commercial special facility premises the holder of the commercial special facility licence for the premises has, with the approval of the commissioner under the *Liquor Act 1992*, let or sublet to the applicant; or
  - (b) the part of commercial special facility premises in relation to which the holder of the commercial special facility licence for the premises has, with the approval of the commissioner under the *Liquor Act 1992*, entered into a franchise or management agreement with the applicant.
- (7) For subsection (5)(c), an application for a gaming machine licence made by a body corporate is signed in the appropriate way—
- (a) if it is signed—
    - (i) by at least 2 of its executive officers authorised to sign by the body corporate; or
    - (ii) if there is only 1 executive officer of the body corporate—by the officer; or
  - (b) if the commissioner considers, for a body corporate having at least 2 executive officers, that paragraph (a) can not reasonably be complied with—if it is signed in the way the commissioner considers appropriate.

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**56A Application for gaming machine licence for replacement category 1 licensed premises**

- (1) Subsection (2) applies if—
- (a) an applicant, under section 56, for a gaming machine licence (a *new licence*) is the holder of a gaming machine licence for category 1 licensed premises (an *old licence*); and
  - (b) because of exceptional circumstances—
    - (i) the applicant intends to give the commissioner notification under section 95 to surrender the old licence; and
    - (ii) the application is for a new licence, in place of the old licence, for category 1 licensed premises (*new premises*); and
    - (iii) the applicant wishes to have some or all of the applicant's operating authorities for the premises to which the old licence relates (the *old premises*) transferred to the new premises.
- (2) The application—
- (a) must be accompanied by notification under section 95 to surrender the old licence; and
  - (b) must relate only to new premises situated—
    - (i) in the same authority region as the old premises; and
    - (ii) within the relevant local community area for the old premises; and
  - (c) must not relate to more than the number of gaming machines fixed for the old licence; and
  - (d) must not relate to hours of gaming that extend outside the hours fixed for the old licence; and
  - (e) must state the number of operating authorities the applicant wishes to have transferred to the new premises; and

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- (f) must include information about the applicant's exceptional circumstances.

*Examples of exceptional circumstances—*

- 1 The applicant may have received, under the *Acquisition of Land Act 1967*, a notice of intention to resume relating to the land on which the old premises are situated or the land may be being acquired under another Act.
- 2 The old premises are situated in a shopping centre that is to be redeveloped.

### **56B Application for gaming machine licence for replacement category 2 licensed premises**

- (1) Subsection (3) applies if—
- (a) an applicant, under section 56, for a gaming machine licence (a ***new licence***) relating to 1 category 2 licensed premises is the holder of a gaming machine licence (an ***old licence***) relating to 1 category 2 licensed premises; and
  - (b) because of exceptional circumstances—
    - (i) the applicant intends to give the commissioner notification under section 95 to surrender the old licence; and
    - (ii) the application is for a new licence, in place of the old licence, for 1 category 2 licensed premises (the ***new premises***); and
    - (iii) the applicant wishes to have all of the entitlements for premises to which the old licence relates (the ***old premises***) transferred to the new premises.
- (2) Subsection (3) also applies if—
- (a) an applicant, under section 56, for a gaming machine licence (a ***new licence***) relating to 2 or more category 2 licensed premises is the holder of a gaming machine licence (an ***old licence***) relating to 2 or more category 2 licensed premises; and
  - (b) because of exceptional circumstances—

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- (i) the applicant intends to give the commissioner notification under section 95 to surrender the old licence; and
  - (ii) the application is for a new licence in place of the old licence; and
  - (iii) for the new licence, the applicant wishes to replace one of the premises (the *old premises*) from the 2 or more premises to which the old licence relates with other premises (the *new premises*); and
  - (iv) the applicant wishes to have all of the entitlements for the old premises transferred to the new premises.
- (3) The application—
- (a) must be accompanied by notification under section 95 to surrender the old licence; and
  - (b) must relate only to premises situated within the relevant local community area for the old premises; and
  - (c) must not relate to more than the number of gaming machines fixed for the old premises; and
  - (d) must not relate to hours of gaming that extend outside the hours fixed for the old licence; and
  - (e) must state the applicant wishes to have all of the entitlements for the old premises transferred to the new premises; and
  - (f) must include information about the applicant's exceptional circumstances.

*Examples of exceptional circumstances—*

- 1 The applicant may have received, under the *Acquisition of Land Act 1967*, a notice of intention to resume relating to the land on which the old premises are situated or the land may be being acquired under another Act.
- 2 The old premises are situated in a shopping centre that is to be redeveloped.

**57 Consideration of application for gaming machine licence**

- (1) The commissioner must consider an application for a gaming machine licence received by the commissioner before granting, or refusing to grant, a gaming machine licence.
- (2) In considering the application, the commissioner—
  - (a) must conduct investigations the commissioner considers are necessary and reasonable to help the commissioner consider the application; and
  - (b) may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.
- (3) Also, in considering the application, the commissioner must assess—
  - (a) the suitability of the premises to which the application relates (the *subject premises*) for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
  - (b) if the applicant is an individual—the financial stability, general reputation and character of the applicant; and
  - (c) if the applicant is a body corporate—
    - (i) the financial stability and business reputation of the body corporate; and
    - (ii) the general reputation and character of the secretary and each executive officer of the body corporate; and
  - (d) the suitability of the applicant to be a licensee; and
  - (e) if a person is stated in an affidavit under section 92 as being a person who satisfies a description mentioned in section 92(4)(a) or (b)—the suitability of the person to be an associate of the applicant; and

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- (f) if the commissioner considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant; and
  - (g) for an application mentioned in section 56A—whether the commissioner is satisfied there are exceptional circumstances for transferring the operating authorities mentioned in section 56A(1)(b)(iii) to the premises to which the application relates; and
  - (h) for an application mentioned in section 56B(1)—whether the commissioner is satisfied there are exceptional circumstances for transferring the entitlements mentioned in section 56B(1)(b)(iii) to the premises to which the application relates; and
  - (i) for an application mentioned in section 56B(2)—whether the commissioner is satisfied there are exceptional circumstances for transferring the entitlements mentioned in section 56B(2)(b)(iv) to the new premises mentioned in that subparagraph.
- (4) For an application by an individual, the commissioner may, with the applicant’s agreement, cause the applicant’s fingerprints to be taken.
  - (5) Despite subsection (1), if the applicant is an individual, the commissioner is required to consider the application only if the applicant, if asked, agrees to having the applicant’s fingerprints taken.
  - (6) If the commissioner considers a proposed location for the installation of gaming machines (as shown on the plan of the subject premises accompanying the application, or that plan as amended and resubmitted, or as last amended and resubmitted, under this subsection) is unsuitable, the commissioner must—
    - (a) by written notice, advise the applicant accordingly; and
    - (b) return the plan to the applicant; and
    - (c) ask the applicant to amend, or further amend, and resubmit the plan within the time stated in the notice.

**58 Decision on application for gaming machine licence**

- (1) The commissioner may decide to grant, or refuse to grant, a gaming machine licence.
- (2) In making the decision, the commissioner must have regard to—
  - (a) any supporting material for the application; and
  - (b) any relevant community comments on the application; and
  - (c) any representations made on the application in response to an invitation under section 55F; and
  - (d) the matters the commissioner had regard to in considering the application under section 57.
- (3) For an application mentioned in section 56A, the commissioner must not allow the transfer of a number of operating authorities that is more than the number of gaming machines the commissioner considers appropriate for the premises to which the application relates.
- (4) The commissioner may refuse to grant a gaming machine licence if the applicant, or an associate of the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 57(2)(b).
- (5) The commissioner must refuse to grant a gaming machine licence if—
  - (a) for an application by an individual—
    - (i) the applicant is not 18 years; or
    - (ii) the applicant's fingerprints have not been taken under section 57(4) because of the applicant's failure to agree to the action being taken; or
  - (b) for an application by a body corporate—the secretary or an executive officer of the body corporate is not 18 years; or

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- (c) the commissioner considers the installation and use of gaming machines on the subject premises 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; or
    - (iii) the public interest; or
  - (d) the applicant fails to comply with a request of the commissioner under section 57(6)(c) without a reasonable excuse.
- (6) For an application by a club, the commissioner must refuse to grant a gaming machine licence if the commissioner considers—
- (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 entire 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 the election of all or any of the members of the club's management committee or board is or may be decided, or controlled or influenced in a significant way or to a significant degree, by persons who are not voting members of the club or by only some voting members of the club—that this is not in the best interests of the club or its members; or

- (e) if the voting members of the club, taken as a group, do not, for any reason, have complete and sole control over the election of all members of the club's management committee or board—that this is not in the best interests of the club or its members; or
  - (f) if the voting members of the club do not have an equal right to elect persons, and to nominate or otherwise choose persons for election, to the club's management committee or board—that this is not in the best interests of the club or its members; or
  - (g) if the club does not own its licensed premises and an executive officer or employee of the club is also the club's lessor, or an associate of the club's lessor—that this is not in the best interests of the club or its members; or
  - (h) 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 or its members; or
  - (i) if the club's management committee or board does not, for any reason, have complete and sole control over the club's business or operations, or a significant aspect of the club's business or operations—that this is not in the best interests of the club or its members; or
  - (j) that the club is being, or may be, used as a device for individual gain or commercial gain by a person other than the club; or
  - (k) that the grant of the licence would not be in the public interest.
- (7) Despite subsection (6)(a), the commissioner may grant a gaming machine licence to a club if the commissioner considers the grant—
- (a) is reasonable because of the club's contractual commitments made in pursuing its objects or purposes; and

- 
- (b) is necessary to meet the reasonable gaming requirements of the club's members; and
  - (c) is in the public interest.
- (8) For subsection (6)(j), a club is not taken to be used as a device for individual or commercial gain merely because it enters into an agreement or arrangement with a person for the supply of goods or services by the person to the club, if the agreement or arrangement—
- (a) is entered into on reasonable terms; and
  - (b) is in the best interests of the club and its members.
- (9) If the commissioner grants a gaming machine licence, the gaming machine areas for the premises to which the licence relates are the locations on the premises shown on—
- (a) the plan of the premises that accompanied the application for the licence; or
  - (b) the plan mentioned in paragraph (a), as amended and resubmitted, or as last amended and resubmitted, under section 57(6).
- (10) If, for an application by an individual, the commissioner refuses to grant a gaming machine licence, the commissioner must have any fingerprints of the applicant taken for the application destroyed as soon as practicable.
- (11) If the commissioner grants a gaming machine licence, the commissioner must immediately give written notice of the decision to the applicant.

*Note—*

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

- (12) If the commissioner decides to impose, under section 73(1)(b), a condition on the licence, the commissioner must immediately give the applicant an information notice for the decision.

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- (13) If the commissioner refuses to grant a gaming machine licence, the commissioner must immediately give the applicant an information notice for the decision.

*Note—*

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

- (14) In this section—

*election*, of a member of a club's management committee or board, includes a matter relating to the election of a member, including, for example, the nomination of a person for election as a member.

## **59 Particulars to be fixed on grant of gaming machine licence**

- (1) This section applies if the commissioner decides to grant a gaming machine licence.
- (2) The commissioner must—
- (a) if the application relates to single premises only—
- (i) fix the number of gaming machines that may, for the licence, be installed on the premises; and
  - (ii) fix the hours of gaming for the premises; and
  - (iii) for an application mentioned in section 56A—fix the number of operating authorities to be transferred to the premises; and
  - (iv) for an application mentioned in section 56B—fix the number of entitlements to be transferred to the premises; or
- (b) if the application relates to 2 or more premises, fix for each of the premises—
- (i) the number of gaming machines that may, for the licence, be installed on the premises; and
  - (ii) the hours of gaming for the premises; and

- 
- (iii) for an application mentioned in section 56B—the number of entitlements to be transferred to the premises.
- (3) If the number of gaming machines and the hours of gaming fixed for premises are as sought in the application, the commissioner must immediately give written notice of the decision to the applicant.
- (4) If the number of gaming machines and the hours of gaming fixed for premises are not as sought in the application, the commissioner must immediately give the applicant an information notice for the decision.
- (5) For an application mentioned in section 56A—
- (a) if the number of operating authorities fixed for the premises is the number sought in the application—the commissioner must immediately give the applicant written notice of the decision; or
  - (b) if the number of operating authorities fixed for the premises is not the number sought in the application—the commissioner must immediately give the applicant an information notice for the decision.
- (6) For an application mentioned in section 56B—
- (a) if the number of entitlements fixed for the premises is the number sought in the application—the commissioner must immediately give the applicant written notice of the decision; or
  - (b) if the number of entitlements fixed for the premises is not the number sought in the application—the commissioner must immediately give the applicant an information notice for the decision.

**60 Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided**

- (1) This section deals with the basis on which the commissioner is to decide the number of gaming machines to be installed in, or the hours of gaming for, premises.

*Note—*

See section 59.

- (2) The commissioner must have regard to—
- (a) the number of gaming machines, and the hours of gaming, sought in the application for the gaming machine licence; and
  - (b) any supporting material for the application; and
  - (c) any relevant community comments on the application; and
  - (d) any representations made on the application in response to an invitation under section 55F; and
  - (e) the size and layout of, and facilities on, the premises; and

*Example for paragraph (e)—*

The commissioner must have regard to whether automatic teller machines are installed on the premises and, if so, the proximity of the gaming machine areas to automatic teller machines.

- (f) the size and layout of the proposed gaming machine areas for the premises.
- (3) The commissioner may also have regard to—
- (a) the liquor consumption for the premises to which the application relates; and
  - (b) the hours and days when the premises are open for the sale of liquor; and
  - (c) the anticipated level of gaming on the premises; and
  - (d) for an application by a club—the number of members of the club; and

- 
- (e) any other matters the commissioner considers relevant.
  - (4) If the gaming machine licence is to relate to single premises only, the number of gaming machines fixed must not be greater than—
    - (a) the number sought in the application; or
    - (b) the maximum number prescribed under a regulation for the category of licensed premises to which the premises will belong.
  - (5) If the gaming machine licence is to relate to 2 or more premises, the number of gaming machines fixed for the premises—
    - (a) must not, for a particular premises, be greater than the number sought in the application for the premises; and
    - (b) must not be more than—
      - (i) the maximum number prescribed by regulation for category 2 licensed premises; and
      - (ii) the maximum number in total prescribed by regulation for all category 2 licensed premises to which a single license relates.
  - (6) For subsection (5)—
    - (a) a gaming machine licence is taken to relate to 2 or more premises if the licensee operates gaming machines on premises in another State or Territory; and
    - (b) in working out whether a limit fixed under subsection (5)(b) has been exceeded, gaming machines operated by the licensee in another State or Territory are to be brought into account as if they were gaming machines installed in licensed premises in Queensland.

## **Division 4                      Application for additional licensed premises**

### **61                      Application for additional licensed premises**

- (1) A category 2 licensee may apply for approval of premises, additional to its existing licensed premises, as premises to which the licensee's gaming machine licence relates.
- (2) The application for approval may be made only for—
  - (a) premises to which a community club licence held by the applicant relates; or
  - (b) if the applicant has made an application for a community club licence and the application has not been decided—the premises to which the application for the community club licence relates; or
  - (c) if the applicant has made a liquor licence transfer application relating to a community club licence and the application has not been decided—the premises to which the liquor licence transfer application relates.
- (3) The application for approval must—
  - (a) be in the approved form; and
  - (b) be given to the commissioner; and
  - (c) be signed in the appropriate way; and
  - (d) state the full name, address and date of birth of the secretary and each executive officer of the applicant; and
  - (e) give full particulars of the ownership, and any intended ownership, of the premises to which the application relates (the *additional premises*); and
  - (f) state—
    - (i) the number of gaming machines intended to be installed on the additional premises; and
    - (ii) the hours of gaming sought for the additional premises; and

- 
- (g) be accompanied by—
    - (i) the required material for the application; and
    - (ii) any fee prescribed under a regulation for the application.
  - (4) For subsection (3)(c), the application is signed in the appropriate way—
    - (a) if it is signed by at least 2 executive officers of the applicant authorised to sign by the applicant; or
    - (b) if the commissioner considers that paragraph (a) can not reasonably be complied with—if it is signed in the way the commissioner considers appropriate.
  - (5) For subsection (3)(g)(i), the required material for the application is—
    - (a) a copy of the resolution or minute of the proceedings of the governing body of the applicant by which approval was given to the making of the application, certified as a true copy by the secretary of the applicant or another person authorised to certify by the applicant; and
    - (b) a statement stating—
      - (i) the number of members in each class of membership of the applicant; and
      - (ii) the hours and days when the additional premises are, or are intended to be, open for the sale of liquor; and
    - (c) a statutory declaration by the principal executive officer of the applicant that the rules or by-laws of the applicant—
      - (i) have been complied with in making the application; and
      - (ii) do not prohibit the playing of gaming machines on the additional premises; and
    - (d) one of the following—

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- (i) evidence, satisfactory to the commissioner, that the applicant is the holder of a community club licence for the additional premises;
  - (ii) a copy of an application for a community club licence for the additional premises made by the applicant; and
- (e) a plan of the additional premises showing the proposed locations for gaming machines intended to be installed on the premises; and
  - (f) an affidavit under section 92; and
  - (g) any other documents the commissioner considers necessary and reasonable to enable the application to be decided.

## **62 Consideration of additional premises application**

- (1) The commissioner must consider an additional premises application received by the commissioner before approving, or refusing to approve, the additional premises as premises to which the applicant's gaming machine licence relates.
- (2) In considering the application, the commissioner—
  - (a) must conduct investigations the commissioner considers are necessary and reasonable to help the commissioner consider the application; and
  - (b) may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.
- (3) Also, in considering the application, the commissioner must assess—
  - (a) the suitability of the additional premises for the installation and use of gaming machines, having regard

- 
- to the size and layout of, and facilities on, the premises;  
and
- (b) the financial stability and business reputation of the applicant; and
  - (c) the general reputation and character of the secretary and each executive officer of the applicant; and
  - (d) if a person is stated in an affidavit under section 92 as being a person who satisfies a description mentioned in section 92(4)(a) or (b)—the suitability of the person to be an associate of the applicant; and
  - (e) if the commissioner considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant.
- (4) If the commissioner considers a proposed location for the installation of gaming machines (as shown on the plan of the additional premises accompanying the application, or that plan as amended and resubmitted, or as last amended and resubmitted, under this subsection) is unsuitable, the commissioner must—
- (a) by written notice, advise the applicant accordingly; and
  - (b) return the plan to the applicant; and
  - (c) ask the applicant to amend, or further amend, and resubmit, the plan within the time stated in the notice.

### **63 Decision on additional premises application**

- (1) The commissioner may, in relation to an additional premises application, approve, or refuse to approve, the additional premises as premises to which the applicant's gaming machine licence relates.
- (2) In making the decision, the commissioner—
  - (a) must have regard to—
    - (i) any supporting material for the application; and

- (ii) any relevant community comments on the application; and
  - (iii) the matters the commissioner had regard to in considering the application under section 62; and
- (b) may have regard to—
  - (i) the benefits to be offered to members of the applicant at the additional premises and, in particular, whether the benefits are distinct in nature to the benefits offered to the members at the applicant's existing licensed premises (the *existing premises*); and
  - (ii) any other matters the commissioner considers relevant.
- (3) The commissioner may approve the additional premises only if the commissioner is satisfied that—
  - (a) it is in the best interests of the applicant's members that the approval be given; and
  - (b) the giving of the approval is not contrary to the public interest.
- (4) The commissioner may refuse to approve the additional premises if the applicant, or an associate of the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 62(2)(b).
- (5) The commissioner must refuse to approve the additional premises if—
  - (a) the commissioner considers the installation and use of gaming machines on the additional premises 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; or
    - (iii) the public interest; or

- 
- (b) the applicant fails to comply with a request of the commissioner under section 62(4)(c) without a reasonable excuse.
  - (6) If the commissioner approves the additional premises, the commissioner must immediately give written notice of the decision to the applicant.
  - (7) If the commissioner refuses to approve the additional premises, the commissioner must immediately give the applicant an information notice for the decision.

*Note—*

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

**64 Fixing number of gaming machines and hours of gaming for additional premises**

- (1) This section applies if the commissioner decides to approve additional premises as premises to which the applicant's gaming machine licence (the *existing licence*) relates.
- (2) The commissioner must—
  - (a) fix the number of gaming machines that may be installed on the additional premises; and
  - (b) fix the hours of gaming for the additional premises.
- (3) In fixing the number of gaming machines, and the hours of gaming for additional premises, the commissioner—
  - (a) must have regard to the number of gaming machines, and the hours of gaming, sought in the additional premises application; and
  - (b) must have regard to any supporting materials for the application; and
  - (c) must have regard to any relevant community comments on the application; and
  - (d) may have regard to the matters, in relation to the additional premises, to which the commissioner is

authorised to have regard in making a corresponding decision on an application for a gaming machine licence.

*Note—*

See section 60(3).

- (4) The number of gaming machines fixed under subsection (2)—
  - (a) must not be greater than the number sought in the application; and
  - (b) must be a number that, when added to the approved number, or total approved number, of gaming machines for the existing premises, does not result in a number of gaming machines that is more than—
    - (i) the maximum number prescribed by regulation for category 2 licensed premises; and
    - (ii) the maximum number in total prescribed by regulation for all category 2 licensed premises to which a single licence relates.
- (5) If the number of gaming machines and the hours of gaming fixed for the additional premises are as sought in the additional premises application, the commissioner must immediately give written notice of the decision to the applicant.
- (6) If the number of gaming machines and the hours of gaming fixed for the additional premises are not as sought in the additional premises application, the commissioner must immediately give the applicant an information notice for the decision.

## **65 Application of gaming machine licence to additional premises**

- (1) This section applies if the commissioner decides to approve additional premises as premises to which the applicant's existing licence relates.

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- (2) On return of the existing licence to the commissioner, the commissioner must—
    - (a) amend the licence to cover the additional premises and return the amended licence to the licensee; or
    - (b) if the commissioner does not consider it practicable to amend the licence—issue a replacement gaming machine licence, incorporating the additional premises, to the licensee.
  - (3) On action being taken by the commissioner under subsection (2)—
    - (a) the gaming machine licence relates to the additional premises for the number of gaming machines decided by the commissioner for the premises; and
    - (b) the gaming machine areas for the additional premises are the locations on the premises shown on—
      - (i) the plan of the additional premises that accompanied the additional premises application; or
      - (ii) the plan mentioned in subparagraph (i), as amended and resubmitted, or as last amended and resubmitted, under section 62(4); and
    - (c) the gaming machine licence continues to have effect in relation to the existing premises in the way the licence had effect in relation to the premises immediately before the action was taken.

## **Division 5                      Change of circumstance**

### **66                      Changes in circumstances of applicants for gaming machine licences and licensees generally**

- (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 commissioner written notice of the change.

Maximum penalty—100 penalty units.

- (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 commissioner written notice of the event.

Maximum penalty—100 penalty units.

- (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 affected by control action under the Corporations Act; or

(iv) is convicted of an indictable offence 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).

## **67 Changes in circumstances of category 2 licensees**

- (1) This section applies to a category 2 licensee, in relation to the category 2 licensed premises, if—

(a) a lease, agreement or arrangement made by the licensee about the premises was in existence at the time the licensee became the licensee of the premises; and

(b) the lease, agreement or arrangement—

(i) provided for payments for the rental or lease of the premises; or

- 
- (ii) provided that a person was entitled to receive, or may receive, a payment of another kind, or a benefit or advantage; and
    - (c) the licensee intends to materially change a provision mentioned in paragraph (b).
  - (2) This section also applies to a category 2 licensee, in relation to the category 2 licensed premises, if the licensee intends—
    - (a) to enter into a management agreement for the licensee’s business or operations; or
    - (b) to change a management agreement for the licensee’s business or operations into which the licensee has entered.
  - (3) The licensee must, at least 28 days before the proposed material change happens, or the licensee enters into the proposed management agreement or changes the management agreement, give to the commissioner a written notice including full details of the proposed material change, management agreement or change to the management agreement.

Maximum penalty—100 penalty units.

- (4) For subsection (1)(c), a licensee intends to materially change the lease, agreement or arrangement mentioned in the subsection if—
  - (a) if subsection (1)(b)(i) applies—
    - (i) the proposed change will likely affect the amount or frequency of the payments or the period for which the payments are required to be made; or
    - (ii) the person entitled to receive the payments will likely change; or
  - (b) if subsection (1)(b)(ii) applies—
    - (i) the proposed change will likely affect the amount of the payment, or the nature or extent of the benefit or advantage; or

- (ii) the person entitled to receive, or who may receive, the payment, benefit or advantage will likely change.
- (5) The licensee must, within 7 days after the material change happens, or the licensee enters into the management agreement or changes the management agreement, give to the commissioner a written notice including full details of the material change, management agreement or change to the management agreement.

Maximum penalty—100 penalty units.

- (6) In this section—  
*management agreement*, for a licensee’s business or operations, means an agreement or arrangement made by the licensee about the management of the licensee’s business or operations, other than an agreement or arrangement—
  - (a) made by the licensee with an individual who—
    - (i) is not a party to an agreement or arrangement about the management of another licensee’s business or operations; or
    - (ii) is not an associate of a person who is a party to an agreement or arrangement about the management of another licensee’s business or operations; and
  - (b) for which the licensee is required, under the *Taxation Administration Act 1953* (Cwlth), schedule 1, part 2-5, division 12, subdivision 12-B, section 12-35, to withhold an amount from the individual’s salary or wages under the agreement or arrangement.

## **Division 6                      Gaming machine licences generally**

### **68            Issue of gaming machine licences generally**

- (1) If the commissioner grants a gaming machine licence, the commissioner must issue the licence.

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- (2) The gaming machine licence must be in the approved form, which must provide for the inclusion of each of the following particulars—
- (a) the name of the licensee;
  - (b) the location of the premises, or each of the premises, to which the licence relates;
  - (c) the date of issue of the licence;
  - (d) for a gaming machine licence for category 1 licensed premises—
    - (i) the authority region in which the licensed premises are located; and
    - (ii) the number of operating authorities for the licensed premises, including the number of operating authorities, if any, for the licensed premises that must be sold at an authorised sale; and
    - (iii) the registration number of each operating authority for the licensed premises;
  - (e) for a gaming machine licence for category 2 licensed premises—the number of entitlements for the premises, or each of the premises, to which the licence relates;
  - (f) any conditions of the licence imposed under section 73(1)(b).

## **69 Issue of amalgamated gaming machine licences to clubs**

- (1) This section applies if, at its commencement, a club holds more than 1 gaming machine licence, each for separate premises.
- (2) Within 1 month after the commencement, the commissioner must issue a single, fresh gaming machine licence (an *amalgamated licence*) to the licensee to replace the gaming machine licences held by the licensee at the commencement (the *superseded licences*).
- (3) The amalgamated licence—

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- (a) is to relate to each of the premises that, at the commencement, were licensed premises of the licensee; and
  - (b) for its application to particular premises—has the same effect for all purposes as the superseded licence had for the premises.
- (4) The amalgamated licence must be in the approved form, which must provide for the inclusion of the following particulars—
- (a) the name of the licensee;
  - (b) the location of each of the premises to which the licence relates;
  - (c) the date of issue of the licence;
  - (d) any conditions of the licence (other than conditions applying because of section 73(1)(a)).
- (5) A condition to be stated in the amalgamated licence must be a condition to the same effect as a condition stated in a superseded licence.
- (6) On the issue of the amalgamated licence to the licensee, each superseded licence held by the licensee is cancelled.
- (7) Within 14 days after receiving the amalgamated licence, the licensee must return each superseded licence in the licensee's possession to the commissioner.

Maximum penalty—40 penalty units.

## **70 Gaming machine licences to be displayed**

- (1) If a licensee's gaming machine licence relates to single premises only, the licensee must display the licensee's licence in a conspicuous position on the licensed premises in question unless the licence at any material time is in the possession of the commissioner.

Maximum penalty—40 penalty units.

- (2) If a licensee's gaming machine licence relates to 2 or more premises, the licensee must display a copy of the licence in a conspicuous position in each of the premises.

Maximum penalty—40 penalty units.

## **71 Issue of copy or replacement gaming machine licences—generally**

- (1) If the commissioner is satisfied that a gaming machine licence has been damaged, lost or destroyed, the commissioner, upon payment of the fee prescribed, may issue to the licensee a copy of the gaming machine licence.
- (2) If the commissioner is satisfied the name of a licensee or a licensee's licensed premises has been changed, the commissioner must issue to the licensee a fresh licence, stating the licensee's or licensed premises' current name, to replace the licence (the *affected licence*) previously issued to the licensee.
- (3) However, the commissioner is required to issue a licence to a licensee under subsection (2) only if—
  - (a) the fee prescribed under a regulation for the issue of the licence has been paid to the commissioner; and
  - (b) the licensee's affected licence has been returned to the commissioner.
- (4) 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.

## **71A Replacement of gaming machine licence for particular changes**

- (1) This section applies if a licensee for licensed premises receives a notice under section 83(5) or (6), 85C(4) or (5), 88A(1) or (2) or 90C(5) or (6) for a decision to approve an increase or decrease in the following (each a *relevant change*)—

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- (a) the approved number of gaming machines for the premises;
  - (b) the hours of gaming for the premises.
- (2) The licensee must, within 7 days after receiving the notice, give to the commissioner—
- (a) the licensee's gaming machine licence; and
  - (b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

- (3) On receipt of a licensee's gaming machine licence under subsection (2), the commissioner must, as soon as practicable, give the licensee a replacement licence showing the relevant change.
- (4) If the replacement licence is for category 1 licensed premises, the replacement licence must include the information mentioned in section 68(2)(d).
- (5) If the replacement licence is for category 2 licensed premises, the replacement licence must include the following particulars—
- (a) the information mentioned in section 68(2)(e);
  - (b) the number of entitlements for the licensed premises that have been transferred to the licensee of other licensed premises on a temporary basis under part 3B, division 3;
  - (c) the number of entitlements for other licensed premises that have been transferred to the licensee on a temporary basis under part 3B, division 3;
  - (d) if the licensee received a notice under section 88A(1) or (2) relating to a decision approving a decrease in the approved number of gaming machines for the licensee's licensed premises—the number of entitlements for the licensed premises that must, under section 87(9), be transferred on a permanent basis under part 3B, division 2.

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**73 Conditions of gaming machine licences**

- (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 74) as the commissioner may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 74.
- (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.

**74 Imposition or variation of conditions**

- (1) Where the commissioner 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 73(1)(b) or paragraph (a) of this subsection;

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

- (2) If the commissioner decides to impose or vary conditions under subsection (1), the commissioner must immediately give the licensee—
  - (a) written notice of the conditions or varied conditions; and
  - (b) an information notice for the decision.
- (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).

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- (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 commissioner within 14 days.

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

- (5) After endorsing the gaming machine licence, the commissioner is to return it to the licensee.

## **75 Payment and recovery of amounts**

- (1) All amounts received by the commissioner under conditions referred to in section 73 must be paid into the consolidated fund.
- (2) The commissioner, for any reason that the commissioner considers is sufficient, may forgive or refund any penalty payable under conditions referred to in section 73.
- (3) All amounts payable by a licensee under conditions referred to in section 73 that remain unpaid may be recovered as a debt payable by the licensee to the Crown.
- (4) The commissioner, 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.

## **77 Gaming machine licences can not be transferred**

A gaming machine licence can not be transferred to another person or to other premises.

**78 Certain applications under Liquor Act 1992 subject to commissioner's certificate**

- (1) Despite anything in the *Liquor Act 1992*, if a person makes a liquor licence transfer application relating to a community club licence, commercial hotel licence or prescribed liquor licence, the commissioner may transfer the licence under the *Liquor Act 1992* only if the commissioner issues a certificate under subsection (2).
- (2) The commissioner 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 commissioner 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 73 or under part 9.
- (3) Subsection (4) applies if—
  - (a) a person—
    - (i) makes a liquor licence transfer application relating to a community club licence, commercial hotel licence or prescribed liquor licence; and
    - (ii) applies at the same time for a gaming machine licence for the premises to which the application mentioned in paragraph (a) relates; and
  - (b) the commissioner is prepared to transfer the liquor licence under the *Liquor Act 1992*; and
  - (c) the commissioner is prepared to grant the gaming machine licence.

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- (4) The commissioner must transfer the liquor licence under the *Liquor Act 1992* and issue the gaming machine licence at the same time.
- (5) Subsections (6) and (7) apply if—
  - (a) under subsection (4), a gaming machine licence (a ***new licence***) is to be issued at the same time as the transfer of a liquor licence; and
  - (b) an associated gaming licence for the liquor licence is cancelled under section 96(1) because of the transfer of the liquor licence.
- (6) All operating authorities or entitlements, if any, for the licensed premises under the cancelled associated gaming machine licence are transferred by operation of this subsection to the holder of the new licence.
- (7) However, an entitlement for the licensed premises under the cancelled associated gaming licence that must, under section 87(9), be transferred on a permanent basis under part 3B, division 2—
  - (a) is not transferred by operation of subsection (6) to the holder of the new licence; and
  - (b) becomes an entitlement of the State.
- (8) In subsection (6)—

***operating authority***, for the licensed premises under the cancelled associated gaming machine licence, does not include an operating authority that must be sold at an authorised sale.

**78A Liquor licence transfer application, and additional premises application, for premises**

- (1) Subsection (2) applies if a category 2 licensee makes a liquor licence transfer application relating to a community club licence for premises additional to its existing licensed premises.

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- (2) Despite the *Liquor Act 1992*, the commissioner may transfer the licence under the *Liquor Act 1992* only if the commissioner issues a certificate under subsection (3).
  - (3) The commissioner may issue the certificate only if—
    - (a) the premises are not licensed premises under this Act; or
    - (b) if the premises are licensed premises under this Act—
      - (i) the commissioner is prepared, under section 63, to approve the premises as premises to which the category 2 licensee's gaming machine licence relates; and
      - (ii) satisfactory arrangements have been made for payment of any amounts payable by the current licensee under conditions mentioned in section 73 or under part 9.
  - (4) Subsection (5) applies if—
    - (a) a category 2 licensee—
      - (i) makes a liquor licence transfer application relating to a community club licence for particular premises; and
      - (ii) at the same time makes an additional premises application for the premises; and
    - (b) the commissioner is prepared to transfer the liquor licence under the *Liquor Act 1992*; and
    - (c) the commissioner is prepared, under section 63, to approve the premises as premises to which the category 2 licensee's gaming machine licence relates.
  - (5) The commissioner must transfer the liquor licence under the *Liquor Act 1992* and approve the premises under section 63 at the same time.
  - (6) Subsections (7) and (8) apply if—
    - (a) under subsection (5), an approval of the premises under section 63 is to be made at the same time as the transfer of a liquor licence; and

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- (b) an associated gaming licence for the liquor licence is cancelled under section 96(1) because of the transfer of the liquor licence.
- (7) All entitlements, other than relevant entitlements, for the licensed premises under the cancelled associated gaming licence are transferred by operation of this subsection to the category 2 licensee for use at the premises on a permanent basis.
- (8) A relevant entitlement for the licensed premises under the cancelled associated gaming licence becomes an entitlement of the State.
- (9) In this section—  
*relevant entitlement*, for the licensed premises under the cancelled associated gaming licence, means an entitlement that must under section 87(9) be transferred on a permanent basis under part 3B, division 2.

## 79 Other applications under Liquor Act 1992

- (1) This section applies if—
  - (a) a person makes an approval application; and
  - (b) the commissioner approves the application under the *Liquor Act 1992*; and
  - (c) the commissioner issues a gaming machine licence (a *new licence*) to the relevant person for the approval application.
- (2) All operating authorities, if any, for the part of commercial special facility premises to which the approval application relates are transferred by operation of this subsection to the holder of the new licence.
- (3) In this section—  
*approval application* means an application under the *Liquor Act 1992* for an approval that—

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- (a) a part of commercial special facility premises be let or sublet; or
  - (b) a franchise or management rights of a similar nature be granted for a part of commercial special facility premises.

*operating authority* does not include an operating authority that must be sold at an authorised sale.

*relevant person*, for an approval application, means the proposed lessee, sublessee, franchisee, or proposed holder of management rights, for the part of commercial special facility premises to which the approval application relates.

## 80 Directions to licensees about authorised gaming machines

- (1) The commissioner may direct a licensee to alter an authorised gaming machine of the licensee to change the game that may be played on the machine.
- (2) However, the commissioner may give a direction about a gaming machine only if—
  - (a) the game that may be played on the machine is not an approved game; or
  - (b) if the game that may be played on the machine is an approved game—the commissioner reasonably believes subsection (3) applies to the machine.
- (3) This subsection applies for subsection (2)(b) if—
  - (a) the machine malfunctions when it is being used; and
  - (b) the making of the proposed alteration will stop the machine malfunctioning; and
  - (c) without the proposed alteration being made, the continued use of the machine may compromise proper standards of integrity affecting gaming or adversely affect the public interest in some other way.
- (4) A direction must—

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- (a) be in writing; and
  - (b) state the grounds on which it is given; and
  - (c) state when the licensee to whom it is given is required to comply with the direction.
- (5) A licensee to whom a direction is given must comply with the direction, unless the licensee has a reasonable excuse.

Maximum penalty for subsection (5)—200 penalty units.

**80B Restriction on installation and operation of gaming machines for category 1 licensee**

A category 1 licensee must not, at the licensee's licensed premises, install and operate more than the number of gaming machines that is equal to the endorsed number of operating authorities for the licensed premises.

Maximum penalty—200 penalty units.

**80C Restriction on installation and operation of gaming machines for category 2 licensee**

- (1) A category 2 licensee must not, at the licensee's licensed premises or each of the licensee's licensed premises, install or operate more than the number of gaming machines that is equal to the total of the following—
- (a) the endorsed number of entitlements for the licensed premises;
  - (b) the number of any entitlements that are currently transferred under part 3B, division 3 for use on a temporary basis at the licensed premises.

Maximum penalty—200 penalty units.

- (2) For subsection (1)(a), the endorsed number of entitlements for the licensed premises is taken not to include the number of any entitlements for the licensed premises that are currently transferred under part 3B, division 3 for use on a temporary basis at other category 2 licensed premises.

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## **Division 7                      Increase of approved number of gaming machines**

### **81            Application to increase approved number of gaming machines**

- (1) A licensee may apply to have the approved number of gaming machines for licensed premises of the licensee increased.
- (2) An application must—
  - (a) be in the approved form; and
  - (b) be given to the commissioner; and
  - (c) be signed in the same way an application for a gaming machine licence is required to be signed; and

*Note—*

See section 56(5)(b) and (c) and (7).

- (d) if the licensee's gaming machine licence relates to 2 or more premises—state the premises to which the application relates; and
- (e) state the number of gaming machines sought under the increase; and
- (f) state the approved number of gaming machines that would apply to the licensed premises if the increase were to be approved; and
- (g) if appropriate, be accompanied by an application under section 91; and
- (h) be accompanied by any fee prescribed under a regulation for the application.

### **82            Consideration of increase application (gaming machines)**

- (1) The commissioner must consider an increase application (gaming machines) received by the commissioner before approving, or refusing to approve, the application.

- (2) In considering the increase application, the commissioner may, by written notice given to the applicant, require the applicant, within a reasonable time stated in the notice, to give the commissioner further information or a document that is necessary and reasonable to help the commissioner consider the application.
- (3) Also, in considering the increase application, the commissioner—
  - (a) must have regard to—
    - (i) the increased number of gaming machines sought in the application; and
    - (ii) any supporting material for the application; and
    - (iii) any relevant community comments on the application; and
  - (b) may have regard to—
    - (i) the monthly taxable metered win of gaming machines currently operated on the premises; and
    - (ii) the size and layout of, and facilities on, the premises, together with any proposed changes to, or relocation of, the gaming machine areas of the premises; and
    - (iii) the nature or character of the premises; and
    - (iv) the general use of the premises or the enjoyment of persons using the premises; and
    - (v) the public interest; and
    - (vi) any other matters the commissioner considers relevant.

**83 Decision on increase application (gaming machines)**

- (1) The commissioner may, in relation to an increase application (gaming machines)—

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- (a) approve, by a stated number, an increase in the approved number of gaming machines for the licensed premises of the licensee; or
  - (b) refuse to approve an increase in the approved number.
- (2) In making the decision, the commissioner must have regard to the matters the commissioner had regard to in considering the increase application under section 82.
  - (3) The commissioner must refuse to approve an increase if—
    - (a) the application relates to category 2 licensed premises; and
    - (b) any of the endorsed number of entitlements for the licensed premises are, at the time the application is made, transferred under part 3B, division 3 for use on a temporary basis at other category 2 licensed premises.
  - (4) The commissioner may refuse to approve an increase if the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 82(2).
  - (5) If the commissioner approves an increase that is equal to the increase sought in the application, the commissioner must immediately give written notice of the decision to the licensee.

*Note—*

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

- (6) If the commissioner refuses to approve an increase, or approves an increase that is less than the increase sought in the application, the commissioner must immediately give the licensee an information notice for the decision.

*Note—*

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

- (7) If the approved number of gaming machines for licensed premises has been fixed (or increased or decreased) within the

last 12 months, the commissioner may only approve an increase in the approved number of gaming machines if there are exceptional reasons for the increase.

## **85 Fixing increase number of gaming machines**

- (1) This section applies for the giving of an approval by the commissioner under section 83(1) for an increase in the approved number of gaming machines for licensed premises of a licensee.
- (2) The number (the *increase number*) fixed by the commissioner as the number by which the approved number is to be increased must not be greater than the number of gaming machines sought in the relevant application.
- (3) Also, if the licensee's gaming machine licence relates to single premises only (the *licensee's premises*), the increase number must be a number that, when added to the current approved number of gaming machines for the premises, does not result in a total number of gaming machines that is greater than the maximum number prescribed under a regulation for the category of licensed premises to which the licensee's premises belong.
- (4) Also, if the licensee's gaming machine licence relates to 2 or more premises, the increase number must be a number that, when added to the current approved number of gaming machines for each or all of the premises, does not result in a total number of gaming machines that is more than—
  - (a) the maximum number prescribed by regulation for category 2 licensed premises; and
  - (b) the maximum number in total prescribed by regulation for all category 2 licensed premises to which a single licence relates.

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## **Division 8                    Increase of approved hours of gaming**

### **85A    Application to increase approved hours of gaming**

- (1) A licensee may apply to have the approved hours of gaming for licensed premises of the licensee increased.
- (2) A proposed change to the approved hours of gaming for licensed premises is taken to be an increase if the change would allow the conduct of gaming on the licensed premises at a time when gaming was previously unlawful (even though the change might reduce aggregate hours of gaming or leave the aggregate unchanged).
- (3) An application must—
  - (a) be in the approved form; and
  - (b) be given to the commissioner; and
  - (c) be signed in the same way as an application for a gaming machine licence is required to be signed; and

*Note—*

See section 56(5)(b) and (c) and (7).

- (d) if the licensee's gaming machine licence relates to 2 or more premises—state the premises to which the application relates; and
- (e) state the hours of gaming for which approval is sought.

### **85B    Consideration of increase application (hours of gaming)**

- (1) The commissioner must consider an increase application (hours of gaming) received by the commissioner before approving, or refusing to approve, the application.
- (2) In considering the increase application, the commissioner may, by written notice given to the applicant, require the applicant, within a reasonable time stated in the notice, to give the commissioner further information or a document that is

necessary and reasonable to help the commissioner consider the application.

- (3) Also, in considering the increase application, the commissioner—
  - (a) must have regard to—
    - (i) the increase in approved hours of gaming sought in the application; and
    - (ii) any supporting material for the application; and
    - (iii) any relevant community comments on the application; and
  - (b) may have regard to—
    - (i) the hours and days when the licensed premises are open for the sale of liquor; and
    - (ii) any other matters the commissioner considers relevant.

### **85C Decision on increase application (hours of gaming)**

- (1) The commissioner may, in relation to an increase application (hours of gaming)—
  - (a) approve the hours of gaming sought by the applicant; or
  - (b) approve an increase that differs from the increase sought by the applicant; or
  - (c) refuse to approve an increase to the hours of gaming for the licensed premises.
- (2) In making the decision, the commissioner must have regard to the matters the commissioner had regard to in considering the increase application under section 85B.
- (3) The commissioner may refuse to approve an increase if the applicant, without a reasonable excuse, fails to comply with a requirement of the commissioner under section 85B(2).

- (4) If the commissioner approves an increase as sought by the licensee, the commissioner must immediately give written notice of the decision to the licensee.
- (5) If the commissioner refuses to approve an increase, or approves an increase that differs from the increase sought in the application, the commissioner must immediately give the licensee an information notice for the decision.

## **Division 9                      Decrease of approved number of gaming machines**

### **86            Proposals to decrease approved number of gaming machines**

- (1) A licensee may apply to have the approved number of gaming machines for licensed premises of the licensee decreased.
- (1A) However, the application may not be made by a category 2 licensee to whom entitlements of other category 2 licensed premises are currently transferred under part 3B, division 3 for use on a temporary basis at the licensed premises mentioned in subsection (1).
- (1B) Subsection (1C) applies if—
  - (a) an application mentioned in subsection (1) is made by a category 2 licensee; and
  - (b) one or more of the entitlements of the licensed premises are currently transferred under part 3B, division 3 for use on a temporary basis at other category 2 licensed premises.
- (1C) The application may not relate to the gaming machines, the entitlements for which are subject to the transfer mentioned in subsection (1B)(b).
- (2) An approved authority may request that the approved number of gaming machines for licensed premises of a licensee be decreased.

- (3) An inspector may make a report recommending the approved number of gaming machines for a licensee's licensed premises be decreased—
- (a) because of a material change affecting the licensee that has happened since the licensee was granted a gaming machine licence; or
  - (b) if, within the period of 6 months immediately before the report, the licensee did not operate, for a continuous period of 3 months, 1 or more gaming machines included in the approved number of gaming machines for the licensed premises other than—
    - (i) a gaming machine stored with the commissioner's approval as mentioned in section 225(3); or
    - (ii) a gaming machine that was not available for gaming because the gaming machine was undergoing alteration, adjustment, maintenance or repair by a licensed repairer acting under this Act.
- (4) For subsection (3)(b), the period immediately before a report can not include a period before the commencement of this subsection.
- (4A) Subsection (3)(b) does not apply to a gaming machine for category 2 licensed premises, the entitlement for which is currently transferred under part 3B, division 3 for use on a temporary basis at other category 2 licensed premises.
- (5) An application by a licensee must be—
- (a) in the approved form; and
  - (b) given to the commissioner; and
  - (c) accompanied by the gaming machine licence for the licensed premises; and
  - (d) if the licensee intends to relocate the gaming machine areas for licensed premises of the licensee—accompanied by an application under section 91.
- (6) A request or report mentioned in subsection (2) or (3) must—
- (a) be in writing; and

- (b) be given to the commissioner; and
  - (c) state, by reference to a number, the decrease requested or recommended; and
  - (d) state the approved number of gaming machines for the licensed premises if the decrease were to be approved.
- (7) For subsection (3), a change is a material change affecting a licensee if the change is—
- (a) a general change of conditions in the neighbourhood in which the licensee’s licensed premises are situated; or
  - (b) a change in the licensee’s circumstances; or
  - (c) a change in any of the matters mentioned in section 60(3) relating to the licensee or licensee’s licensed premises.

## **87 Decision on decrease proposal**

- (1) The commissioner must consider a decrease proposal received by the commissioner and either—
- (a) approve, by a stated number, a decrease in the approved number of gaming machines for the licensed premises of the licensee; or
  - (b) refuse to approve a decrease in the approved number.
- (2) The commissioner may approve a decrease that is less than the decrease sought in a decrease proposal.
- (3) If the decrease proposal is a request or report, the commissioner must, before making a decision—
- (a) by written notice given to the licensee affected by the proposal—
    - (i) advise the licensee of the relevant details of the proposal; and
    - (ii) invite the licensee to give the commissioner a written submission about the proposal within a reasonable time stated in the notice; and

- (b) consider any written submission of the licensee received within the stated time.
- (4) If the decrease proposal is an application, the commissioner—
  - (a) must not refuse to approve a decrease if the refusal is likely to impose an unreasonable financial burden on the licensee; and
  - (b) must not approve a decrease that is greater than the decrease sought in the application.
- (5) If the decrease proposal is an application by a category 1 licensee and the decrease is approved under subsection (1)(a), the number of operating authorities for the licensee's licensed premises that is more than the approved number of gaming machines for the licensed premises must be sold at an authorised sale.
- (6) If the decrease proposal is an application by a category 1 licensee, the commissioner may, if asked in writing by the licensee at the time the application is made, approve a decrease conditional on the sale of an operating authority for the licensed premises under the licensee's gaming machine licence for each gaming machine to be disposed of under the approval.
- (7) If an approval is conditional as mentioned in subsection (6), the approval has effect, in relation to each gaming machine to be disposed of under the approval, when an operating authority for the gaming machine is sold.
- (8) If the decrease proposal is a request or report relating to category 2 licensed premises, the commissioner may not approve a decrease if the approval is likely to impose an unreasonable financial burden on the licensee.
- (9) If the decrease proposal is an application by a category 2 licensee and the decrease is approved under subsection (1)(a), the entitlements for the licensee's licensed premises that are more in number than the approved number of gaming machines for the licensed premises must be transferred on a permanent basis under part 3B, division 2 within 2 years after the decrease is approved.

- (10) If the entitlements mentioned in subsection (9) are not transferred under that subsection, the entitlements become entitlements of the State.
- (11) However, if the licensee mentioned in subsection (9) applies to the commissioner under section 109M(1) for an approval of a transfer of the entitlements mentioned in subsection (9) within 2 years after the decrease is approved and the commissioner does not make a decision on the application before the end of that period, subsection (10) does not apply until 14 days after notification of the decision under section 109M.

#### **88A Notice of decision about decrease proposal**

- (1) The commissioner must immediately give written notice of a decision under section 87(1) to the licensee if—
  - (a) the decision relates to an application and is a decision approving a decrease that is equal to the decrease sought in the application; or
  - (b) the decision relates to a request or report and is a decision refusing to approve a decrease.
- (2) The commissioner must immediately give the licensee an information notice for a decision under section 87(1) if—
  - (a) the decision relates to an application and is a decision—
    - (i) refusing to approve a decrease; or
    - (ii) approving a decrease that is less than the decrease sought in the application; or
  - (b) the decision relates to a request or report and is a decision approving a decrease.

#### **89 Matters to be taken into account for decrease proposal**

- (1) This section applies to the commissioner in making a decision about a decrease proposal.

- (3) The commissioner must have regard to the decrease sought or recommended in the proposal.
- (4) Also, the commissioner may have regard to the following matters—
  - (a) the public interest;
  - (b) whether or not there are any other licensed premises in close proximity to the licensed premises to which the decrease proposal relates (the *subject premises*);
  - (c) the interests of persons using the subject premises;
  - (d) if the licensee of the subject premises is a category 2 licensee—
    - (i) the interests of the members of the licensee; and
    - (ii) whether or not the members have indicated support for a decrease in the approved number of gaming machines for the premises.

**90 Surrender or disposal of gaming machines on approval of decrease**

- (1) This section applies if the commissioner approves a decrease in the approved number of gaming machines for licensed premises.
- (2) The licensee must, within the required time, dispose of the number of gaming machines stated for the decrease.
- (3) For subsection (2), the required time for disposing of the gaming machines is—
  - (a) the period ending 1 month after the licensee receives notice of the decision approving the decrease; or
  - (b) if the commissioner extends, or further extends, the period for taking the action, by written notice given to the licensee in the period or extended period—the period as extended.
- (4) Despite subsection (3), if the approval for the decrease is conditional on the sale of an operating authority for each

gaming machine to be disposed of under the approval, the required time for disposing of a gaming machine in relation to the decrease is the period ending 1 month after the sale of an operating authority for the gaming machine.

- (5) The commissioner may give an extension for subsection (3)(b) only if the commissioner considers it is appropriate to take the action in the circumstances of the particular case.

## **Division 10                    Decrease of approved hours of gaming**

### **90A    Proposals to decrease approved hours of gaming**

- (1) A licensee may apply to have the approved hours of gaming for licensed premises of the licensee decreased.
- (2) An approved authority may request that the approved hours of gaming for licensed premises of a licensee be decreased.
- (3) An inspector may make a report—
  - (a) relating to a material change affecting a licensee that has happened since the licensee was granted a gaming machine licence; and
  - (b) recommending that the approved hours of gaming for the licensee's licensed premises be decreased.
- (4) An application, request or report must—
  - (a) be in writing; and
  - (b) be given to the commissioner; and
  - (c) state the hours of gaming that would apply to the licensed premises if the decrease were to be approved.
- (5) For subsection (3), a change is a material change affecting a licensee if the change is—
  - (a) a general change of conditions in the neighbourhood in which the licensee's licensed premises are situated; or

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- (b) a change in the licensee's circumstances; or
- (c) a change in any of the matters to which the commissioner is authorised to have regard in fixing the hours of gaming for the licensed premises.

*Note—*

See section 60(3).

### **90B Consideration of decrease proposal (hours of gaming)**

- (1) The commissioner must consider a decrease proposal (hours of gaming) received by the commissioner before approving, or refusing to approve, the proposal.
- (2) If the decrease proposal is a request or a report, the commissioner must, in considering the decrease proposal—
  - (a) by written notice given to the licensee affected by the proposal, advise the licensee of the relevant details of the proposal; and
  - (b) by the notice, invite the licensee to make a written submission about the proposal within a reasonable time stated in the notice; and
  - (c) consider any written submission of the licensee received by the commissioner within the time stated in the notice.
- (3) Also, in considering the decrease proposal, the commissioner—
  - (a) must have regard to the decrease sought or recommended in the proposal; and
  - (b) may have regard to the following matters—
    - (i) the public interest;
    - (ii) whether or not there are any other licensed premises in close proximity to the licensed premises to which the decrease proposal relates (the *subject premises*);
    - (iii) the interests of persons using the subject premises;

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- (iv) if the licensee of the subject premises is a category 2 licensee—
    - (A) the interest of the members of the licensee; and
    - (B) whether or not the members have indicated support for a decrease in the approved hours of gaming for the premises.

### **90C Decision on decrease proposal (hours of gaming)**

- (1) The commissioner may, in relation to a decrease proposal (hours of gaming)—
  - (a) approve the proposal without modification; or
  - (b) modify the proposal and approve the proposal as modified by the commissioner; or
  - (c) refuse to approve the proposal.
- (2) In making the decision, the commissioner must have regard to—
  - (a) any submission received under section 90B(2)(c); and
  - (b) the matters the commissioner had regard to in considering the decrease proposal under section 90B.
- (3) If the decrease proposal is an application, the commissioner—
  - (a) must not refuse to approve a decrease if the refusal is likely to impose an unreasonable financial burden on the licensee; and
  - (b) may not approve a decrease that is greater than the decrease sought in the application.
- (4) If the decrease proposal is a request or report, the commissioner may not approve a decrease if the approval is likely to impose an unreasonable financial burden on the licensee.
- (5) The commissioner must immediately give written notice of a decision of the commissioner under subsection (1) to the licensee if—

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- (a) the decision relates to an application and is a decision approving the decrease as sought in the application; or
  - (b) the decision relates to a request or report and is a decision refusing to approve a decrease.
- (6) The commissioner must immediately give the licensee an information notice for a decision of the commissioner under subsection (1) if—
- (a) the decision relates to an application and is a decision—
    - (i) refusing to approve a decrease; or
    - (ii) approving a decrease that differs from the decrease sought in the application; or
  - (b) the decision relates to a request or report and is a decision approving a decrease.

## **Division 11                      Relocation of gaming machine areas**

### **91                      Relocation of gaming machine areas**

- (1) A licensee must not relocate the gaming machine areas of licensed premises of the licensee without the approval of the commissioner.
- Maximum penalty—40 penalty units.
- (2) An application for approval must be—
- (a) in the approved form; and
  - (b) given to the commissioner; and
  - (c) accompanied by a plan of the premises showing the proposed locations on the premises where it is intended to install gaming machines.
- (3) Where—
- (a) the commissioner approves a decrease in the approved number of gaming machines for licensed premises; or

- (b) the commissioner considers that it is necessary for the proper conduct of gaming that the gaming machine areas of licensed premises be relocated;

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

- (4) The licensee must comply with the commissioner's direction.

Maximum penalty—200 penalty units.

- (5) The commissioner may before—

(a) granting an approval under subsection (1); or

(b) giving a direction under subsection (3);

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

Maximum penalty—200 penalty units.

- (6) The commissioner, having regard to—

(a) the size, layout and facilities of the licensee's licensed premises; and

(b) such other matters as the commissioner considers are relevant;

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

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

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

## **Division 11A            Ceasing gaming at particular licensed premises**

### **91A    Ceasing gaming at licensed premises**

- (1) This section applies to a category 2 licensee if—
  - (a) additional premises have been approved under section 63(1) for the licence; and
  - (b) the licensee ceases the conduct of gaming on any licensed premises under the licence.
- (2) The licensee must, immediately after ceasing the conduct of gaming on the licensed premises, give the commissioner—
  - (a) the licence; and
  - (b) a written notice stating—
    - (i) the day the conduct of gaming ceased; and
    - (ii) details of the licensed premises on which the conduct of gaming ceased.

Maximum penalty—40 penalty units.

- (3) All entitlements for the licensed premises on which the conduct of gaming has ceased must be transferred on a permanent basis under part 3B, division 2 within 2 years after the licensee ceases the conduct of gaming on the licensed premises.
- (4) If the entitlements are not transferred on a permanent basis under part 3B, division 2 within the time mentioned in subsection (3), the entitlements become entitlements of the State.
- (5) However, if the licensee applies to the commissioner under section 109M(1) for an approval of a transfer of the entitlements within 2 years after the licensee ceases the conduct of gaming and the commissioner does not make a decision on the application before the end of that period, subsection (4) does not apply until 14 days after notification of the decision under section 109M.

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- (6) Subsection (7) applies if—
- (a) a category 2 licensee ceases the conduct of gaming on any licensed premises under the licensee's licence; and
  - (b) at the time the licensee ceases the conduct of gaming, either—
    - (i) one or more of the endorsed number of entitlements for the licensed premises have been transferred to the licensee of other licensed premises on a temporary basis under part 3B, division 3; or
    - (ii) one or more entitlements for other licensed premises have been transferred to the licensee on a temporary basis under part 3B, division 3.
- (7) The temporary transfer of the entitlements ends on the day the licensee ceases the conduct of gaming.

**91B Commissioner may amend or replace licence**

- (1) On receiving the licence, the commissioner must—
- (a) amend the licence to show the licensed premises on which the conduct of gaming may take place under the licence; or
  - (b) issue a replacement licence, showing the licensed premises on which the conduct of gaming may take place under the licence.
- (2) As soon as practicable after amending or replacing a licence under subsection (1), the commissioner must give the licensee the amended or replacement licence.

**91C Dealing with gaming machines on ceasing the conduct of gaming**

- (1) A licensee who gives notice under section 91A(2)(b) must dispose of the gaming machines that are on the licensed premises mentioned in the notice—

- (a) within 1 month after giving the notice; or
- (b) if the commissioner extends, or further extends, the period for the disposal by written notice given to the licensee in the period or extended period—within the period as extended.

Maximum penalty—200 penalty units.

- (2) The commissioner may give the licensee a notice extending the period if the commissioner is satisfied it would be reasonable in all the circumstances to give the extension.
- (3) Also, the commissioner must, as soon as practicable after receiving a notice under section 91A(2)(b), give written notice of the ceasing of the conduct of gaming to each licensed monitoring operator the commissioner believes is supplying basic monitoring services to the licensee.

## **Division 12                    Disclosure and investigations**

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

- (1) An applicant for a gaming machine licence, or a licensee who makes an additional premises application, must, at the time of making the application, give the commissioner an affidavit 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 commissioner a fresh affidavit made under this section.

Maximum penalty—100 penalty units.

- (3) An affidavit under this section is to be made by—
  - (a) if the applicant or licensee is an individual—the applicant; or
  - (b) if the applicant or licensee is 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) if the applicant or licensee is an individual—by the applicant; or
    - (ii) if the applicant or licensee is 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 an individual—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 have a substantial holding in the body corporate.
- (5) Despite subsection (4), an affidavit under this section need not disclose anything that is prescribed for the purposes of this subsection.

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

- (1) At any time while a gaming machine licence is in force the commissioner may cause to be undertaken such investigations as the commissioner 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 commissioner 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 commissioner considers is necessary.
- (3) The person must comply with the commissioner's requirement under subsection (2).

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

**94 Change to secretary or executive officer of body corporate**

- (1) This section applies to a body corporate that is—
  - (a) an applicant under section 56; or
  - (b) a category 1 licensee that also holds a liquor licence for which a fee is payable for a licence period under the *Liquor Act 1992*; or
  - (c) a category 2 licensee that is required, under section 304, to give a copy of an audit report to the commissioner.
- (2) The body corporate must—
  - (a) for a body corporate mentioned in subsection (1)(a)—notify the commissioner of a management change within 7 days after the change happens; or
  - (b) for a body corporate mentioned in subsection (1)(b)—notify the commissioner of any management change for a licence period when the fee for the licence period is paid; or
  - (c) for a body corporate mentioned in subsection (1)(c)—notify the commissioner of any management change for the period to which an audit report relates, when a copy of the audit report is given to the commissioner under section 304.

Maximum penalty—40 penalty units.

- (3) The notice must—
  - (a) be in the approved form; and

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- (b) include the full name, address and date of birth of any person commencing as, or ceasing to be, the secretary or an executive officer of the body corporate.
- (4) In this section—
  - licence period* see the *Liquor Act 1992*, section 4.
  - management change*, for a body corporate, means—
    - (a) a person ceasing to be the secretary or an executive officer of the body corporate; or
    - (b) a person commencing as the secretary or an executive officer of the body corporate.

## **Division 13                      Surrender, suspension, cancellation etc.**

### **95                      Surrender of gaming machine licences**

- (1) A licensee, at any time, may surrender the licensee's gaming machine licence by giving the commissioner—
  - (a) a notification in the approved form; and
  - (b) the gaming machine licence, unless the surrender is by a category 1 licensee and is conditional on the sale of the licensee's operating authorities.
- (2) The notification is to be signed in the same way as that specified for an application made under section 56(5)(b) or (c).
- (2A) If a category 1 licensee surrenders the licensee's gaming machine licence, all operating authorities for the licensed premises under the licence must be sold at an authorised sale.
- (2B) If the licensee is a category 1 licensee, the notification under subsection (1) may state the surrender is conditional on the sale of the licensee's operating authorities for the licensed premises under the licence.

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- (2C) If the notification states the surrender is conditional on the sale of the licensee's operating authorities, the licensee must give the licence to the commissioner immediately after the licensee is aware all the operating authorities have been sold.
- Maximum penalty—40 penalty units.
- (2D) If a category 2 licensee surrenders the licensee's gaming machine licence, all entitlements for the licensed premises under the licence must be transferred on a permanent basis under part 3B, division 2 within 2 years after the surrender.
- (2E) If the entitlements mentioned in subsection (2D) are not transferred on a permanent basis under part 3B, division 2 within the time mentioned in that subsection, the entitlements become entitlements of the State.
- (2F) However, if the licensee mentioned in subsection (2D) applies to the commissioner under section 109M(1) for an approval of a transfer of the entitlements mentioned in subsection (2D) within 2 years after the surrender and the commissioner does not make a decision on the application before the end of that period, subsection (2E) does not apply until 14 days after notification of the decision under section 109M.
- (2G) Subsection (2H) applies if—
- (a) a category 2 licensee surrenders the licensee's gaming machine licence; and
  - (b) either—
    - (i) one or more of the endorsed number of entitlements for the licensed premises have been transferred to the licensee of other licensed premises on a temporary basis under part 3B, division 3; or
    - (ii) one or more entitlements for other licensed premises have been transferred to the licensee on a temporary basis under part 3B, division 3.
- (2H) The temporary transfers of the entitlements end on the day the licence is surrendered.

- (3) The commissioner may require the licensee to submit such information or material as the commissioner thinks fit.
- (4) The licensee must comply with the commissioner's requirement under subsection (3).

Maximum penalty—200 penalty units.

- (6) The commissioner must, as soon as practicable after receiving the documents mentioned in subsection (1), give written notice of the notification of surrender to any licensed monitoring operator the commissioner believes is supplying basic monitoring services to the licensee.
- (8) Subject to subsection (8A), a licensee who gives a notification under subsection (1)(a) must dispose of the gaming machines that are on the licensed premises—
  - (a) within 1 month after giving the notification; or
  - (b) if the commissioner extends, or further extends, the period for the disposal, by written notice given to the licensee in the period or extended period—within the period as extended.

Maximum penalty—200 penalty units.

- (8A) If the surrender of a gaming machine licence is conditional on the sale of the licensee's operating authorities, the licensee must, within 1 month after each sale of operating authorities for the licensed premises under the licence, dispose of the number of gaming machines equal to the number of operating authorities sold.

Maximum penalty—200 penalty units.

- (9) The commissioner may give an extension for subsection (8)(b) only if the commissioner considers it is appropriate to take the action in the circumstances of the particular case.
- (10) The surrender of the gaming machine licence takes effect on the nominated day for the surrender of the licence.
- (11) In this section—

*nominated day*, for the surrender of a gaming machine licence, means—

- (a) if paragraph (b) or (c) does not apply—the day (the *set day*) that is 3 months after the notification of surrender is given; or
- (b) if a day of effect that is later than the set day is stated in the notification of surrender—the day stated in the notification; or
- (c) if, at the request of the licensee, the commissioner, by written notice, approves a day of effect that is earlier than the set day—the day approved by the commissioner.

**95A Surrender of gaming machine licence being replaced—  
category 1 licensed premises**

- (1) This section applies if the commissioner has decided—
  - (a) to grant an application mentioned in section 56A for a new gaming machine licence (a *new licence*) for other premises (the *new premises*) in place of a licence being surrendered under section 95 (an *old licence*); and
  - (b) to transfer some or all of the operating authorities for the premises to which the old licence relates to the new premises.
- (2) Section 95(2A) to (2C), (3), (4), (6) and (8) to (11) applies in the following way if all of the operating authorities are being transferred to the new premises—
  - (a) subsections (2A) to (2C) do not apply to the operating authorities;
  - (b) subsections (3) and (4) apply in relation to the surrender;
  - (c) subsections (6), (8) to (9) do not apply to the gaming machines that may, under the new licence, be installed on the new premises but do apply to any gaming

machines that may not be installed on the new premises under that licence;

- (d) despite subsections (10) and (11), the surrender has effect when the new licence is issued by the commissioner under section 68.
- (3) Section 95(2A) to (2C), (3), (4), (6) and (8) to (11) applies in the following way if only some of the operating authorities are being transferred to the new premises—
- (a) subsections (2A) to (2C) apply only to the operating authorities not being transferred;
  - (b) subsections (3) and (4) apply in relation to the surrender;
  - (c) subsections (6), (8) to (9) apply only to the gaming machines not being installed on the new premises;
  - (d) despite subsections (10) and (11), the surrender has effect when the new licence is issued by the commissioner under section 68.

**95B Surrender of gaming machine licence being replaced—  
category 2 licensed premises**

- (1) This section applies if the commissioner has decided to grant an application mentioned in section 56B(1) or (2) for a new gaming machine licence (a *new licence*) in place of a licence being surrendered under section 95.
- (2) Section 95(2D) to (4), (6) and (8) to (11) applies in the following way—
  - (a) subsections (2D) to (2F) do not apply;
  - (b) subsections (3) and (4) apply in relation to the surrender;
  - (c) subsections (6), (8) to (9) do not apply;
  - (d) despite subsections (10) and (11), the surrender has effect when the new licence is issued by the commissioner under section 68.

**96 Action affecting gaming machine licences based on action affecting liquor licences**

- (1) If a liquor licence is cancelled, transferred or surrendered, any associated gaming licence is cancelled.
- (1A) However, an associated gaming licence is not taken to be cancelled under subsection (1) if—
  - (a) the commercial special facility licence for the associated gaming licence is surrendered merely because the licensee for the associated gaming licence is issued with a commercial hotel licence for the associated gaming licence; or
  - (b) the commercial hotel licence for the associated gaming licence is surrendered merely because the licensee for the associated gaming licence is issued with a commercial special facility licence for the associated gaming licence.
- (2) If a liquor licence is suspended, any associated gaming licence is suspended for the same period as the liquor licence is suspended.
- (3) However, if an associated gaming licence relates to 2 or more premises, subsections (1) and (2) apply to the licence only to the extent it relates to the premises to which the liquor licence relates or related.
- (4) If the premises to which a liquor licence relates (the *subject premises*) are taken to be unlicensed premises under the *Liquor Act 1992* and there is an associated gaming licence for the liquor licence, the premises, or the part of the premises to which the associated gaming licence relates, are taken not to be licensed premises under this Act for the same period as the subject premises are taken to be unlicensed premises under the *Liquor Act 1992*.
- (5) In this section—

*associated gaming licence*, for a liquor licence, means a gaming machine licence for the premises, or a part of the premises, to which the liquor licence relates.

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

- (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, locates, relocates or uses any gaming machine on the licensed premises contrary to this Act; or
    - (iv) fails to comply with any provision of part 9; or
    - (v) fails to comply with any condition to which the licence is subject under section 73; or
    - (vi) fails to forward or lodge an affidavit in accordance with section 92(2); or
    - (vii) fails to take all reasonable steps to establish and maintain satisfactory controls, and administrative and accounting procedures, for the conduct of gaming in carrying on the licensee's operations; 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 affected by control action under the Corporations Act; or
    - (iv) is convicted of an indictable offence punishable by imprisonment for 1 year or more (irrespective of

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- 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 commissioner, and fails to comply with the direction; or
  - (vi) is required under this Act to supply information or material to the commissioner 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
  - (vii) contravenes a provision of this Act (not being a provision a contravention of which is an offence against this Act, or a provision imposing a requirement of a kind mentioned in subparagraph (v) or (vi)); or
- (c) the commissioner—
- (i) considers that the licensee has not made all reasonable efforts to comply with section 261A(1); or
  - (ia) considers that the licensee has contravened section 80B or 109C; or
  - (ii) considers that the licensee has not made all reasonable efforts to enforce rules required to be enforced under section 237; 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 commissioner is of the opinion that the licence would have been refused; or

- (v) if the licensee is a category 2 licensee—
  - (A) that the licensee has ceased to be a non-proprietary club; or
  - (B) that the proceeds from the conduct of gaming are being applied in a way that does not promote the objectives of the licensee; or
  - (C) that the licensee has not been pursuing its objects or purposes in good faith; or
  - (D) that payments made under the licensee's objects are not in the best interests of the licensee's members; or
  - (E) that payments made for things purchased by the licensee are unreasonable; or
  - (F) that salaries, wages, allowances or benefits paid or payable by the licensee to the licensee's executive officers or employees are unreasonable; or
  - (G) that payments for services provided to the licensee are unreasonable or are on the basis of a percentage of the licensee's income, profits or earnings from the conduct of gaming or spending related to the conduct of gaming; or
  - (H) that a matter mentioned in a paragraph of section 58(6) (other than paragraph (a)) exists in relation to the licensee.
- (2) If the commissioner 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 commissioner 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.

*Note—*

Under section 98 the commissioner may immediately suspend a licensee's gaming machine licence.

- (3) The commissioner must give a copy of the notice to show cause to each person the commissioner believes is an interested person of the licensee.
- (4) Also, the commissioner may, by the notice to show cause—
  - (a) require the licensee, within the period stated in the notice, to give a copy of the notice to each interested person of the licensee (other than an interested person to whom a copy of the notice is given under subsection (3)); and
  - (b) if the commissioner considers it appropriate—require the licensee to give the copy in the way the commissioner considers appropriate.
- (5) The notice to show cause 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.
- (6) The notice to show cause is to be in such form and contain such matters as the commissioner thinks fit, subject to this section.
- (7) If the commissioner makes a requirement of the licensee under subsection (4)(a) about an indirectly interested person of the licensee, the commissioner may, at the licensee's request, by written notice given to the licensee, designate the person to be an excluded interested person for the licensee.
- (8) However, the commissioner may designate a person to be an excluded interested person for the licensee only if the commissioner considers it would not be appropriate, or would be unreasonable, in the circumstances to require the licensee to give a copy of the notice to show cause to the person, having regard to the following issues—
  - (a) the nature of the person's interest;

- (b) the likelihood of the person's interest not being affected adversely by a suspension or cancellation of the gaming machine licence;
  - (c) the likelihood of the licensee's interest being improperly prejudiced;
  - (d) another issue the commissioner considers relevant.
- (9) If a requirement is made of the licensee under subsection (4), the licensee must comply with the requirement, unless—
- (a) the licensee has a reasonable excuse; or
  - (b) the interested person to whom the requirement relates is an excluded interested person for the licensee.

Maximum penalty—40 penalty units.

- (10) Each person to whom the notice to show cause is issued may give a written answer to the commissioner at any time not later than the date specified in the notice in that respect.
- (11) Any person to whom a copy of the notice to show cause is given, or is required to be given, under this section may make such written submissions to the commissioner as the person thinks fit at any time not later than the date specified under subsection (5).
- (12) The commissioner is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (11) and, if the commissioner considers that—
- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the commissioner is not to take any action or any further action in relation to the notice and, by written notice, is to advise the licensee accordingly; 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 commissioner 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 commissioner may—
- (i) by written notice give such directions to the licensee as the commissioner 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) either—
    - (A) cancel the gaming machine licence; or
    - (B) suspend the gaming machine licence for the period the commissioner considers appropriate.
- (13) If a direction given by the commissioner under subsection (12)(c)(i) is not complied with within the time specified in the notice, the commissioner may—
- (a) cancel the gaming machine licence; or
  - (b) suspend the gaming machine licence for the period the commissioner considers appropriate.
- (14) If the commissioner 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 commissioner may by letter censure the licensee in respect of any matter connected with or giving rise to the ground.
- (15) If the commissioner cancels or suspends a licence, the commissioner must immediately give the licensee an information notice for the decision to cancel or suspend the licence.
- (16) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (15) or from another date specified in the notice.

- (17) Upon receipt of a notice of cancellation under subsection (15), the person to whom the notice is addressed must cause the licence to be delivered to the commissioner within 14 days.

Maximum penalty—40 penalty units.

- (18) If the commissioner suspends a gaming machine licence under subsection (12)(c)(ii) or (13), the commissioner may—

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

- (19) In the application of subsection (1)(c)(v)(H) to a category 2 licensee, a reference in a paragraph of section 58(4) to a club that is an applicant for a gaming machine licence is taken to be a reference to the licensee.

- (20) In this section—

***directly interested person***, for a licensee, means—

- (a) an approved financier with whom the licensee has entered into an agreement or arrangement relating to operations conducted by the licensee under the licensee's gaming machine licence; or
- (b) a secured creditor of the licensee; or
- (c) for a category 2 licensee—a member of the licensee; or
- (d) for a category 2 licensee who transfers entitlements on a temporary basis under part 3B, division 3—the licensee to whom the entitlements are transferred; or
- (e) for a category 2 licensee to whom entitlements are transferred on a temporary basis under part 3B, division 3—the licensee who transfers the entitlements.

***excluded interested person***, for a licensee, means an indirectly interested person of the licensee designated by the commissioner to be an excluded interested person for the licensee.

***indirectly interested person***, for a licensee, means a person the licensee knows, or ought reasonably to know, has an

interest in the licensee's gaming machine licence, but does not include a directly interested person of the licensee.

*interested person*, for a licensee, means a directly or indirectly interested person of the licensee.

## 98 Immediate suspension of gaming machine licence

- (1) If the commissioner is of the opinion that any act, omission or other thing that constitutes a ground under section 97(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 commissioner may suspend the gaming machine licence.
- (2) If the commissioner suspends a gaming machine licence under subsection (1), the commissioner must immediately give the licensee an information notice for the decision to suspend the licence.
- (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) The suspension of a gaming machine licence under this section continues to have effect until the notice to show cause issued to the licensee under section 97(2) is finally dealt with.

## 99 Suspension of gaming machine licence for non-payment of gaming machine tax, levy or penalty

- (1) This section applies if the amount (the *required amount*) a licensee is, under section 317(1), required to ensure is received by the commissioner for a month is not received by the commissioner on or before the due date for payment of the amount.
- (2) This section also applies if the amount of an instalment (also the *required amount*) a licensee is, because of a direction given to the licensee under section 317(2), required to ensure

is received by the commissioner is not received by the commissioner on or before the due date for payment of the amount.

- (3) The commissioner may suspend the licensee's gaming machine licence.
- (4) The suspension—
  - (a) must be effected by written notice (a *suspension notice*) given to the licensee with a notice to show cause (an *associated show cause notice*) issued to the licensee under section 97(2); and
  - (b) operates immediately the suspension notice is given; and
  - (c) continues to operate until the associated show cause notice is finally dealt with.
- (4A) The suspension notice must be accompanied by an information notice for the decision to suspend the licence.
- (5) The associated show cause notice must be a notice for which the ground for cancellation or suspension on which the notice is based is the ground that the licensee has failed to comply with section 317, and the ground must relate to the same omission as the suspension under subsection (3) relates.
- (6) Despite subsection (4)(c), if, before the associated show cause notice is finally dealt with, the outstanding amount for the required amount is received by the commissioner, or arrangements for payment of the outstanding amount satisfactory to the commissioner are entered into between the commissioner and licensee, the suspension of the gaming machine licence is cancelled.
- (7) The cancellation of a suspension under subsection (6) takes effect on receipt by the commissioner of the outstanding amount, or the entering into of the arrangements for payment of the outstanding amount.
- (8) In this section—

*due date for payment*, for the required amount mentioned in subsection (1), means—

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- (a) the day on or before which the amount is, under section 317(1), required to be received by the commissioner; or
  - (b) if the commissioner, by written notice given to the licensee before the day mentioned in paragraph (a), fixes a later day—the later day fixed by the commissioner.

*due date for payment*, for the required amount mentioned in subsection (2), means—

- (a) the day on or before which the amount is, under the direction, required to be received by the commissioner; or
- (b) if the commissioner, by written notice given to the licensee before the day mentioned in paragraph (a), fixes a later day—the later day fixed by the commissioner.

*outstanding amount*, for the required amount, means the difference between the required amount and any amount received under section 317(1) by the commissioner, on or before the due date for payment of the required amount.

## 100 Effect of suspension of licence

The suspension of a gaming machine licence under section 96, 97(12) or (13) or 98(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 or authorities of the commissioner or an inspector.

## 101 Notices to interested persons

- (1) This section applies if the commissioner—
  - (a) is required, under section 97(12)(a), not to take any action or any further action about a notice to show cause issued to a licensee under section 97(2); or

- (b) issues a letter of censure to a licensee under section 97(12)(b); or
  - (c) gives directions to a licensee under section 97(12)(c); or
  - (d) cancels or suspends a gaming machine licence under section 97(12)(c) or (13); or
  - (e) suspends a gaming machine licence under section 98(1); or
  - (f) suspends a gaming machine licence under section 99(3).
- (2) As soon as practicable after an event mentioned in subsection (1) happens, the commissioner must give written notice of the event to each person to whom the commissioner gave a copy of the relevant notice to show cause under section 97(3).
- (3) Also, the licensee must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), give a copy of the notice to each person to whom the licensee gave, or was required to give, a copy of the relevant notice to show cause because of a requirement under section 97(4).

Maximum penalty—40 penalty units.

- (4) For subsections (2) and (3), an event for subsection (1)(a) is taken to be the arising of a requirement mentioned in the paragraph.
- (5) In this section—

***show cause result notice*** means—

- (a) a written notice given by the commissioner advising of—
  - (i) the arising of a requirement mentioned in subsection (1)(a); or
  - (ii) the taking of action mentioned in subsection (1)(d), (e) or (f); or
- (b) a letter of censure mentioned in subsection (1)(b); or
- (c) the notice by which a direction mentioned in subsection (1)(c) is given.

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**102 Gaming machines not to be played**

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.

**103 Amounts payable under gaming machine licence that ceases to have effect**

The cancellation or surrender 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.

**104 Disposal of gaming machines on cancellation of gaming machine licence**

- (1) This section applies if a gaming machine licence is cancelled.
- (2) The person to whom the information notice for the decision to cancel the licence was given under section 97(15) must dispose of the gaming machines that are on the premises to which the licence related—
  - (a) within 1 month after receiving the notice; or
  - (b) if the commissioner extends, or further extends, the period for the disposal, by written notice given to the person in the period or extended period—within the period as extended.

Maximum penalty—200 penalty units.

- (3) The commissioner may give an extension for subsection (2)(b) only if the commissioner considers it is

appropriate to take the action in the circumstances of the particular case.

### **105 Destruction of fingerprints**

If a person who is an individual ceases to be a licensee, the commissioner must have any fingerprints of the person taken for the application for the gaming machine licence destroyed as soon as practicable.

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

- (1) Without derogating from section 97 or 98, the commissioner may, in respect of a category 2 licensee, instead of suspending a gaming machine licence under section 97(12) or (13) or 98(1), appoint a person to administer the affairs of the licensee.
- (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 licensee until the commissioner orders otherwise.
- (3) This section and sections 107 and 108 apply despite the Corporations Act.

### **107 Expenses of administration**

- (1) The expenses of and incidental to the administration of the affairs of a category 2 licensee by a person appointed under section 106 are payable by the licensee.
- (2) The remuneration of a person so appointed is an expense referred to in subsection (1) and is to be fixed by the commissioner.

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

- (1) A person appointed by the commissioner to administer the affairs of a category 2 licensee is not liable for any loss

incurred by the licensee 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 commissioner is liable for any loss incurred by a category 2 licensee during the term of office of a person appointed under section 106 to administer the affairs of the licensee, whether or not the person is liable.

### 109 Special authorisation to conduct gaming

- (1) This section applies if—
- (a) a person holds licences under the *Liquor Act 1992* and this Act for the same premises; and
  - (b) a person applies under the *Liquor Act 1992*, part 5, division 2 for authorisation to conduct the business of a licensee under that Act on the premises.
- (2) The applicant must give a copy of the application to the commissioner.
- (3) If a person (the *substitute licensee*) is authorised under the *Liquor Act 1992*, part 5, division 2 to conduct the business of a licensee under that Act on the premises, the commissioner may grant a concurrent authorisation to the substitute licensee under this section.

*Note—*

See the *Liquor Act 1992*, section 131A (Decision by commissioner on application to continue trading in certain circumstances).

- (4) While an authorisation under this section remains in force, the substitute licensee—
- (a) is authorised to conduct gaming on the licensed premises as if the substitute licensee were the licensee under the gaming machine licence; and

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- (b) is subject to all the liabilities of the licensee under the gaming machine licence.
- (5) An authorisation under this section is terminated if—
  - (a) the commissioner gives written notice of termination to the substitute licensee; or
  - (b) the authorisation under the *Liquor Act 1992* is revoked or comes to an end.

## **Part 3A                      Operating authorities for    category 1 licensed premises**

### **Division 1                      Preliminary**

#### **109A    Limit on number of operating authorities**

- (1) The maximum number of operating authorities under this Act is the number prescribed under a regulation.
- (2) For this Act, operating authorities of the number prescribed under subsection (1) are declared to exist.
- (3) Subsection (4) applies if the Minister intends to recommend to the Governor in Council the making of a regulation that will change the maximum number of operating authorities to a number that is greater than the number prescribed under the first regulation made under subsection (1).
- (4) Before making the recommendation, the Minister must have regard to whether the population of the State has grown.

### **Division 2                      Sale of operating authorities**

#### **109B    Sale of operating authority**

An operating authority may be sold only by an entity (the *selling entity*), and in the way, prescribed under a regulation.

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**109C Purchase of operating authority at authorised sale**

- (1) A person must not purchase an operating authority unless—
- (a) the person is a category 1 licensee and purchases the operating authority at an authorised sale; and
  - (b) the person has, for the category 1 licensed premises for which the operating authority is purchased, an approved number of gaming machines that is more than the licensee's endorsed number of operating authorities; and
  - (c) unless the authorised sale is conducted for the whole of the State—the category 1 licensed premises for which the operating authority is purchased are located in the authority region for which the authorised sale is conducted.

Maximum penalty—200 penalty units.

- (2) A person must not, for category 1 licensed premises, purchase more than the number of operating authorities equal to the difference between the approved number of gaming machines and the endorsed number of operating authorities for the licensed premises.

Maximum penalty—200 penalty units.

- (3) If an operating authority is transferred to a person by the operation of section 78(5) or 79(2), the person is taken not to have purchased the operating authority.

**109D Dealing with amounts received on sale of operating authorities of the State**

If at an authorised sale an operating authority of the State is sold, the selling entity must pay the amount received for the authority into the consolidated fund.

**109E Dealing with amounts received on sale of licensee's operating authority**

- (1) If at an authorised sale only 1 licensee's operating authorities are sold, the selling entity must deal with the amount received for the authorities as follows—
  - (a) a percentage of the amount received must be paid into the consolidated fund;
  - (b) the balance must be paid to the licensee.
- (2) If at an authorised sale 2 or more licensee's operating authorities are sold, the selling entity must deal with the amount received for the authorities as follows—
  - (a) a percentage of the amount received for all of the authorities sold must be paid into the consolidated fund;
  - (b) the balance must be paid to the licensees in the amounts worked out as provided for under a regulation.
- (3) The selling entity must calculate the amount to be paid into the consolidated fund under subsection (2)(a) in the way prescribed under a regulation.
- (4) The percentage mentioned in subsections (1)(a) and (2)(a) is the percentage prescribed under a regulation.
- (5) In this section—

*licensee*, in relation to an operating authority, includes a person other than a licensee if the person was a licensee and the operating authority is sold for the person at an authorised sale.

**Division 3 Other matters about operating authorities**

**109F When operating authorities become operating authorities of the State**

- (1) An operating authority of a licensee becomes an operating authority of the State and stops being an operating authority of

the licensee by operation of this subsection if the licensee's gaming machine licence—

- (a) is cancelled under section 96 because the licensee's liquor licence is cancelled or surrendered; or
  - (b) is cancelled under section 97(12)(c)(ii)(A) or (13)(a).
- (2) Subsection (3) applies if, at any time, the endorsed number of operating authorities for licensed premises is more than the approved number of gaming machines for the licensed premises because of—
- (a) the approval of a decrease proposal that is a request or report under section 87(1); or
  - (b) other circumstances prescribed under a regulation.
- (3) The number of operating authorities that is more than the approved number of gaming machines for the licensed premises stop being operating authorities of a licensee and become operating authorities of the State by operation of this subsection.

### **109G Compensation is not payable**

No compensation is payable to a licensee or other person because an operating authority of the licensee or person becomes an operating authority of the State by operation of this Act.

### **109H Operating authority not to be encumbered**

An encumbrance to the extent it is over an operating authority is of no effect.

### **109I Issuing replacement gaming machine licence to show endorsed number of operating authorities**

- (1) This section applies if a category 1 licensee purchases an operating authority or a selling entity sells, for a category 1

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licensee, an operating authority for category 1 licensed premises.

(2) The licensee must, within 7 days after the purchase or sale of the operating authority, give to the commissioner—

(a) the licensee's gaming machine licence; and

(b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

(3) If the commissioner receives a gaming machine licence for a licensee under subsection (2), the commissioner must as soon as practicable—

(a) replace the licensee's licence; and

(b) give the replacement licence to the licensee.

(4) The replacement licence must include the information mentioned in section 68(2)(d).

## **Part 3B Entitlements for category 2 licensed premises**

### **Division 1 Preliminary**

#### **109J Limit on number of entitlements**

(1) The maximum number of entitlements under this Act is the number prescribed under a regulation.

(2) For this Act, entitlements of the number prescribed under subsection (1) are declared to exist.

#### **109K Entitlements are transferable**

(1) An entitlement for a category 2 licensed premises is transferable.

- (2) However, a transfer of an entitlement for category 2 licensed premises does not have any effect unless the commissioner approves the transfer under this part.

## Division 2 Permanent transfer of entitlements

### 109L Definitions for div 2

In this division—

*category 2 licensee*, for transferor licensed premises, includes a category 2 licensee—

- (a) who has surrendered the licensee's gaming machine licence; and
- (b) whose entitlements must, under section 95(2D), be transferred on a permanent basis within 2 years after the surrender.

*licensed premises*, of a category 2 licensee who has surrendered the licensee's gaming machine licence, means the premises that were the licensed premises under the licence before its surrender.

*transferee licensed premises* see section 109M(1).

*transferee licensee* see section 109M(1).

*transferor licensed premises* see section 109M(1).

*transferor licensee* see section 109M(1).

### 109M Application for approval

- (1) A category 2 licensee (the *transferor licensee*) for licensed premises (the *transferor licensed premises*) may apply to the commissioner for approval of a transfer of entitlements for the licensed premises to the licensee (the *transferee licensee*) of other category 2 licensed premises (the *transferee licensed premises*) on a permanent basis.

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- (2) The reference to other category 2 licensed premises in subsection (1) includes a reference to other premises to which the transferor licensee's licence relates.
- (3) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by—
    - (i) the details of the transfer prescribed under a regulation; and
    - (ii) the fee, if any, prescribed under a regulation.
- (4) The commissioner must grant the application if the requirements mentioned in sections 109N to 109P are satisfied.
- (5) If the commissioner grants the application, the commissioner must give the transferor licensee and the transferee licensee written notice of the decision.
- (6) The commissioner must refuse to grant the application if the requirements mentioned in sections 109N to 109P are not satisfied.
- (7) If the commissioner refuses to grant the application, the commissioner must give the transferor licensee a written notice stating the decision and the reasons for the decision.

#### **109N Requirement about consideration for the transfer**

- (1) For section 109M(4), requirements about consideration for the transfer are stated in subsections (2) and (3).
- (2) Any consideration for the transfer must be—
  - (a) monetary; and
  - (b) not—
    - (i) less than the amount, if any, prescribed under a regulation; or
    - (ii) more than the amount, if any, prescribed under a regulation.

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- (3) Also, the consideration for the transfer must not give the transferor licensee a direct or indirect interest in, or percentage or share of either of the following on the transferee licensee's licensed premises—
- (a) the amount bet for the purpose of gaming;
  - (b) moneys, revenues, profits or earnings from the conduct of gaming.

### **109O Requirements about transferor licensed premises**

- (1) For section 109M(4), requirements about the transferor licensed premises are stated in subsections (2) to (6).
- (2) Subsection (3) applies if the commissioner has granted an application made by the transferor licensee under section 86 for a decrease in the approved number of gaming machines for the transferor licensed premises.
- (3) The number of entitlements the subject of the transfer must not be more than the difference between the endorsed number of entitlements for the transferor licensed premises and the approved number of gaming machines for the transferor licensed premises after the decrease.
- (4) If the transferor licensee has surrendered the licensee's licence under section 95(1), the number of entitlements the subject of the transfer must not be more than the endorsed number of entitlements for the transferor licensed premises.
- (5) Subsection (6) applies if the transferor licensee has given the commissioner notice under section 91A(2) that the conduct of gaming has ceased at the transferor licensed premises.
- (6) The number of entitlements the subject of the transfer must not be more than the endorsed number of entitlements for the transferor licensed premises at which gaming has ceased.

### **109P Requirements about transferee licensed premises**

- (1) For section 109M(4), requirements about the transferee licensed premises are stated in subsections (2) and (3).

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- (2) The approved number of gaming machines for the transferee licensed premises must be more than the sum of—
  - (a) the endorsed number of entitlements for the licensed premises; and
  - (b) the number of entitlements for other licensed premises that have been transferred to the transferee licensee on a temporary basis under division 3.
- (3) The number of entitlements the subject of the transfer must not be more than the difference between the approved number of gaming machines and the sum of the entitlements mentioned in subsection (2).

#### **109Q Variation of terms of transfer**

- (1) This section applies if—
  - (a) the commissioner has, under section 109M, approved the transfer, by the transferor licensee, of entitlements for the transferor licensed premises to the transferee licensee on a permanent basis under this division; and
  - (b) the transfer has not yet taken place; and
  - (c) the licensees propose to vary the consideration for the transfer.
- (2) The transferor licensee must apply to the commissioner for approval of the variation.
- (3) The application must be—
  - (a) in writing; and
  - (b) accompanied by the fee, if any, prescribed under a regulation.
- (4) The commissioner must grant the application if the requirement mentioned in section 109N will still be satisfied.
- (5) If the commissioner grants the application, the commissioner must give the transferor licensee a written notice of the decision.

- (6) The commissioner must refuse to grant the application if the requirement mentioned in section 109N will not be satisfied.
- (7) If the commissioner refuses to grant the application, the commissioner must give the transferor licensee a written notice stating the decision and the reasons for the decision.

**109R Issuing replacement gaming machine licence to show endorsed number of entitlements**

- (1) This section applies if entitlements for the transferor licensed premises are transferred by the transferor licensee to the transferee licensee on a permanent basis under this division.
- (2) Each of the licensees must, within 14 days after the day of the transfer, give to the commissioner—
  - (a) the licensee’s gaming machine licence; and
  - (b) the fee prescribed under a regulation.Maximum penalty—40 penalty units.
- (3) If the commissioner receives a gaming machine licence for a licensee under subsection (2), the commissioner must as soon as practicable—
  - (a) replace the licensee’s licence; and
  - (b) give the replacement licence to the licensee.
- (4) The replacement licence must include the following—
  - (a) the information mentioned in section 68(2)(e);
  - (b) the number of entitlements for the licensed premises that have been transferred to the licensee of other licensed premises on a temporary basis under division 3;
  - (c) the number of entitlements for other licensed premises that have been transferred to the licensee on a temporary basis under division 3;
  - (d) if the licensee received a notice under section 88A(1) or (2) relating to a decision approving a decrease in the approved number of gaming machines for the licensee’s licensed premises—the number of entitlements for the

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licensed premises that must, under section 87(9), be transferred on a permanent basis under this division.

- (5) This section does not apply to a transferor licensee's licence surrendered under section 95(1).

## **Division 3                      Temporary transfer of entitlements**

### **109S    Definitions for div 3**

In this division—

*transferee licensed premises* see section 109T(1).

*transferee licensee* see section 109T(1).

*transferor licensed premises* see section 109T(1).

*transferor licensee* see section 109T(1).

### **109T    Application for approval**

- (1) A category 2 licensee (the *transferor licensee*) for licensed premises (the *transferor licensed premises*) may apply to the commissioner for approval of a transfer of entitlements for the licensed premises for the use of the entitlements by the licensee (the *transferee licensee*) at other category 2 licensed premises (the *transferee licensed premises*) on a temporary basis.
- (2) The reference to other category 2 licensed premises in subsection (1) includes a reference to other premises to which the transferor licensee's licence relates.
- (3) The application must be—
  - (a) in the approved form; and
  - (b) signed by both the transferor licensee and the transferee licensee; and
  - (c) accompanied by—

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- (i) the details of the transfer prescribed under a regulation; and
    - (ii) the fee, if any, prescribed under a regulation.
  - (4) The commissioner must ensure the approved form includes information about the effect on transferred entitlements of—
    - (a) the surrender, suspension or cancellation of a transferor licensee's licence or a transferee licensee's licence; or
    - (b) the licensee of licensed premises to which a transfer relates ceasing to conduct gaming at the premises.
  - (5) The commissioner must grant the application if the requirements mentioned in sections 109U to 109W are satisfied.
  - (6) If the commissioner grants the application, the commissioner must give the transferor licensee and the transferee licensee written notice of the decision.
  - (7) The commissioner must refuse to grant the application if the requirements mentioned in sections 109U to 109W are not satisfied.
  - (8) If the commissioner refuses to grant the application, the commissioner must give the transferor licensee a written notice stating the decision and the reasons for the decision.

**109U Requirements about transfer period and consideration for the transfer**

- (1) For section 109T(5), requirements about the period of the transfer and the consideration for the transfer are stated in subsections (2) to (4).
- (2) The period of the transfer must not be less than 1 year or more than 8 years.
- (3) Any consideration for the transfer must be—
  - (a) monetary; and
  - (b) not—

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- (i) less than the amount, if any, prescribed under a regulation; or
  - (ii) more than the amount, if any, prescribed under a regulation.
- (4) Also, the consideration for the transfer must not give the transferor licensee a direct or indirect interest in, or percentage or share of either of the following on the transferee licensee's licensed premises—
  - (a) the amount bet for the purpose of gaming;
  - (b) moneys, revenues, profits or earnings from the conduct of gaming.

#### **109V Requirements about transferor licensed premises**

- (1) For section 109T(5), requirements about the transferor licensed premises are stated in subsections (2) to (6).
- (2) The approved number of gaming machines for all licensed premises to which the transferor licensee's licence relates must be less than 30.
- (3) The transferor licensee must not, during the 3 years ending on the day of the proposed transfer of the entitlements the subject of the transfer, have been notified—
  - (a) under section 58 of the grant of the licence for the transferor licensed premises; or
  - (b) under section 63 of the approval of additional premises as premises to which the transferor licensee's licence relates; or
  - (c) under section 83 of an approval to increase the approved number of gaming machines for the transferor licensed premises.
- (4) None of the entitlements for the transferor licensed premises must be—

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- (a) currently transferred under this division for use on a temporary basis at other category 2 licensed premises;  
or
  - (b) required under section 87(9) to be transferred on a permanent basis under division 2.
- (5) None of the entitlements for other category 2 licensed premises must be currently transferred under this division for use on a temporary basis at the transferor licensed premises.
- (6) Subsection (3) does not apply if—
- (a) at the time the transferor licensee was notified as mentioned in subsection (3), entitlements for the transferor licensed premises, equal in number to the approved number of gaming machines for the premises, were transferred under section 78(5) or 78A(7) to the transferor licensee; and
  - (b) at the time the application was made under section 109T, the transferor licensee had installed the number of gaming machines fixed under section 59 for the transferor licensed premises.

### **109W Requirements about transferee licensed premises**

- (1) For section 109T(5), requirements about the transferee licensed premises are stated in subsections (2) to (4).
- (2) The approved number of gaming machines for the transferee licensed premises must be more than the sum of—
  - (a) the endorsed number of entitlements for the licensed premises; and
  - (b) the number of entitlements for other licensed premises that have been transferred to the transferee licensee on a temporary basis under this division.
- (3) The number of entitlements the subject of the transfer must not be more than the difference between the approved number of gaming machines and the sum of the entitlements mentioned in subsection (2).

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- (4) None of the entitlements for the transferee licensed premises must be—
  - (a) currently transferred under this division for use on a temporary basis at other category 2 licensed premises; or
  - (b) required under section 87(9) to be transferred on a permanent basis under division 2.

### **109X Variation of terms of transfer**

- (1) This section applies if—
  - (a) the commissioner has, under section 109T, approved the transfer, by the transferor licensee, of entitlements for the transferor licensed premises to the transferee licensee on a temporary basis under this division; and
  - (b) the licensees propose to vary the period of the transfer or the consideration for the transfer.
- (2) The transferor licensee must apply to the commissioner for approval of the variation.
- (3) The application must be—
  - (a) in writing; and
  - (b) accompanied by the fee, if any, prescribed under a regulation.
- (4) The commissioner must grant the application if the requirements mentioned in section 109U will still be satisfied.
- (5) If the commissioner grants the application, the commissioner must give the transferor licensee written notice of the decision.
- (6) The commissioner must refuse to grant the application if the requirements mentioned in section 109U will not be satisfied.
- (7) If the commissioner refuses to grant the application, the commissioner must give the transferor licensee a written notice stating the decision and the reasons for the decision.

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### **109Y Issuing replacement gaming machine licence**

- (1) This section applies if entitlements for the transferor licensed premises are transferred by the transferor licensee to the transferee licensee on a temporary basis under this division.
- (2) Each of the licensees must, within 14 days after the day of the transfer, give to the commissioner—
  - (a) the licensee's gaming machine licence; and
  - (b) the fee prescribed under a regulation.Maximum penalty—40 penalty units.
- (3) If the commissioner receives a gaming machine licence for a licensee under subsection (2), the commissioner must as soon as practicable—
  - (a) replace the licensee's licence; and
  - (b) give the replacement licence to the licensee.
- (4) The replacement licence must include—
  - (a) the information mentioned in section 68(2)(e); and
  - (b) the number of entitlements for the transferor licensed premises that have been transferred by the transferor licensee to the transferee licensee on a temporary basis under this division.

### **109Z Register of transferred entitlements**

- (1) This section applies if entitlements for the transferor licensed premises are transferred by the transferor licensee to the transferee licensee on a temporary basis under this division.
- (2) The transferor licensee must, during the period of the transfer, keep a register at the transferor licensed premises stating the following—
  - (a) the number of entitlements the subject of the transfer;
  - (b) the name, and licence number, of the transferee licensee;
  - (c) the address of the transferee licensed premises;

(d) the period of the transfer.

Maximum penalty—20 penalty units.

- (3) The transferor licensee must keep the register mentioned in subsection (2) available for inspection by an inspector.

Maximum penalty—20 penalty units.

- (4) The transferee licensee must, during the period of the transfer, keep a register at the transferee licensed premises stating the following—

- (a) the number of entitlements the subject of the transfer;
- (b) the name, and licence number, of the transferor licensee;
- (c) the address of the transferor licensed premises;
- (d) the period of the transfer.

Maximum penalty—20 penalty units.

- (5) The transferee licensee must keep the register mentioned in subsection (4) available for inspection by an inspector.

Maximum penalty—20 penalty units.

## **Division 4 Entitlements of the State**

### **109ZA When entitlement becomes entitlement of the State**

- (1) An entitlement of a licensee becomes an entitlement of the State and stops being an entitlement of the licensee by operation of this subsection if the licensee's gaming machine licence—
- (a) is cancelled under section 96 because the licensee's liquor licence is transferred, cancelled or surrendered; or
  - (b) is cancelled under section 97(12)(c)(ii)(A) or (13)(a).
- (2) Subsection (3) applies if, at any time, the endorsed number of entitlements for licensed premises is more than the approved number of gaming machines for the licensed premises because of—

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- (a) the approval of a decrease proposal that is a request or report under section 87(1); or
  - (b) other circumstances prescribed under a regulation.
- (3) The entitlements that are more in number than the approved number of gaming machines for the licensed premises stop being entitlements of a licensee and become entitlements of the State by operation of this subsection.
  - (4) A temporary transfer ends if the entitlement that is the subject of the temporary transfer becomes an entitlement of the State under subsection (1) or (3).

### **109ZB Compensation is not payable**

No compensation is payable to a licensee or other person because an entitlement of the licensee or person becomes an entitlement of the State by operation of this Act.

### **109ZC Sale of entitlement of the State**

An entitlement of the State may be sold only by an entity (an *entitlement selling entity*), and in the way, prescribed under a regulation.

### **109ZD Purchase of entitlement at authorised entitlements sale**

- (1) A person must not purchase an entitlement at an authorised entitlements sale unless—
  - (a) the person is a category 2 licensee; and
  - (b) the person has, for the category 2 licensed premises for which the entitlement is purchased, an approved number of gaming machines for the licensed premises that is more than the sum of—
    - (i) the endorsed number of entitlements for the licensed premises; and

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- (ii) the number of entitlements for other licensed premises that have been transferred to the licensee on a temporary basis under division 3.

Maximum penalty—200 penalty units.

- (2) A person must not, for category 2 licensed premises, purchase at an authorised entitlements sale more than the number of entitlements equal to the difference between—
  - (a) the approved number of gaming machines for the licensed premises; and
  - (b) the sum of—
    - (i) the endorsed number of entitlements for the licensed premises; and
    - (ii) the number of entitlements for other licensed premises that have been transferred to the licensee on a temporary basis under division 3.

Maximum penalty—200 penalty units.

### **109ZE Dealing with amount received on sale of entitlement of the State**

If an entitlement of the State is sold at an authorised entitlements sale, the entitlement selling entity must pay the amount received for the entitlement into the consolidated fund.

## **Division 5                      Miscellaneous**

### **109ZF Entitlement not to be encumbered**

An encumbrance to the extent it is over an entitlement is of no effect.

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**109ZG Change in endorsed number of entitlements for licensed premises**

- (1) This section applies if there is a change in the endorsed number of entitlements for licensed premises other than because of the transfer of an entitlement for the premises on a permanent basis under division 2.
- (2) The licensee must, within 14 days after the day of the change, give to the commissioner—
  - (a) the licensee’s gaming machine licence; and
  - (b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

- (3) If the commissioner receives a gaming machine licence for a licensee under subsection (2), the commissioner must as soon as practicable—
  - (a) replace the licensee’s licence; and
  - (b) give the replacement licence to the licensee.
- (4) The replacement licence must include the following—
  - (a) the information mentioned in section 68(2)(e);
  - (b) the number of entitlements for the licensed premises that have been transferred to the licensee of other licensed premises on a temporary basis under division 3;
  - (c) the number of entitlements for other licensed premises that have been transferred to the licensee on a temporary basis under division 3;
  - (d) if the licensee received a notice under section 88A(1) or (2) relating to a decision approving a decrease in the approved number of gaming machines for the licensee’s licensed premises—the number of entitlements for the licensed premises that must, under section 87(9), be transferred on a permanent basis under division 2.

**109ZH Decrease in, or end of, temporary transfer of entitlements**

- (1) This section applies if there is—

- (a) a decrease in the number of entitlements for licensed premises transferred by a transferor licensee to a transferee licensee on a temporary basis under division 3; or
  - (b) an end to the transfer of entitlements by a transferor licensee to a transferee licensee on a temporary basis under division 3.
- (2) Each of the licensees must, within 14 days after the day of the decrease mentioned in subsection (1)(a) or ending mentioned in subsection (1)(b), give to the commissioner—
- (a) the licensee's gaming machine licence; and
  - (b) the fee prescribed under a regulation.
- Maximum penalty—40 penalty units.
- (3) Subsection (2) does not apply to a licensee whose gaming machine licence—
- (a) is cancelled under section 96 because the licensee's liquor licence is cancelled or surrendered; or
  - (b) is cancelled under section 97(12)(c)(ii)(A) or (13)(a).
- (4) If the commissioner receives a gaming machine licence for a licensee under subsection (2), the commissioner must as soon as practicable—
- (a) replace the licensee's licence; and
  - (b) give the replacement licence to the licensee.
- (5) The replacement licence must include the following—
- (a) the information mentioned in section 68(2)(e);
  - (b) the number of entitlements for the licensed premises that have been transferred to the licensee of other licensed premises on a temporary basis under division 3;
  - (c) the number of entitlements for other licensed premises that have been transferred to the licensee on a temporary basis under division 3;

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- (d) if the licensee received a notice under section 88A(1) or (2) relating to a decision approving a decrease in the approved number of gaming machines for the licensee's licensed premises—the number of entitlements for the licensed premises that must, under section 87(9), be transferred on a permanent basis under division 2.

### **109ZI Effect of appointment of controller**

- (1) Subsection (2) applies if—
  - (a) entitlements have been transferred to a licensee on a temporary basis under division 3; and
  - (b) a controller is appointed in relation to the property of the licensee.
- (2) The temporary transfer of the entitlements ends on the day the controller is appointed.
- (3) In this section—  
*controller* see the Corporations Act, section 9.

### **109ZJ Review of provisions relating to entitlements**

The commissioner must, within 2 years after the commencement of this section, start a review of the operation of the provisions of this Act relating to entitlements.

## **Part 4                      Licensing of monitoring operators, dealers and testing facility operators**

### **Division 1                      Interpretation**

#### **110      References to particular licensed suppliers**

In this Act, a reference to a licensed supplier in association with a reference to a supplier's licence is a reference to the licensed supplier who holds the supplier's licence.

#### **111      References to particular suppliers' licences**

In this Act, a reference to a supplier's licence in association with a reference to a licensed supplier is a reference to the supplier's licence held by the licensed supplier.

### **Division 2                      Suitability of persons**

#### **112      Suitability of applicants for, and holders of, suppliers' licences**

- (1) This section applies to the commissioner in deciding whether—
  - (a) an applicant (the *involved body*) for a monitoring operator's licence, or a licensed monitoring operator (also the *involved body*), is a suitable person to hold a monitoring operator's licence; or
  - (b) an applicant (also the *involved body*) for a major dealer's licence, or a licensed major dealer (also the *involved body*), is a suitable person to hold a major dealer's licence; or
  - (c) an applicant (also the *involved body*) for a secondary dealer's licence, or a licensed secondary dealer (also the

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- involved body*), is a suitable person to hold a secondary dealer's licence; or
- (d) an applicant (also the *involved body*) for a testing facility operator's licence, or a licensed testing facility operator (also the *involved body*), is a suitable person to hold a testing facility operator's licence.
- (2) The commissioner 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
    - (ii) the person's current financial position and financial background;
  - (d) the involved body's general suitability to hold a supplier's licence of the kind applied for, or held, by the involved body;
  - (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 operations conducted under a supplier's licence of the kind applied for, or held, by the involved body;
  - (g) whether the involved body has, or is able to obtain, the services of persons with appropriate business ability, knowledge or experience to enable the involved body to successfully conduct operations under a supplier's licence of the kind applied for, or held, by the involved body;
  - (h) 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;
- (i) any other issue prescribed under a regulation.

### **113 Suitability of associates**

- (1) This section applies to the commissioner in deciding whether—
  - (a) an associate of an applicant for a monitoring operator's licence, or of a licensed monitoring operator, is a suitable person to be associated with the monitoring operations of a licensed monitoring operator; or
  - (b) an associate of an applicant for a major dealer's licence, or of a licensed major dealer, is a suitable person to be associated with the supply operations of a licensed major dealer; or
  - (c) an associate of an applicant for a secondary dealer's licence, or of a licensed secondary dealer, is a suitable person to be associated with the supply operations of a licensed secondary dealer; or
  - (d) an associate of an applicant for a testing facility operator's licence, or a licensed testing facility operator, is a suitable person to be associated with the testing operations of a licensed testing facility operator.
- (2) The commissioner 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.

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**114 Other issues about suitability**

Sections 112 and 113 do not limit the issues the commissioner may have regard to in deciding a matter to which the section relates.

**Division 3 Applications for, and issue of, suppliers' licences**

**115 Application for licence**

- (1) An application for a supplier's licence may be made only by a body corporate.
- (2) An application must—
  - (a) be made to the commissioner; 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 last audited balance sheet or statement of the financial affairs of the applicant;
  - (d) a disclosure affidavit;  
*Note—*  
Section 182 deals with the requirements for disclosure affidavits.
  - (e) 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.

**116 Further information to support application**

- (1) The commissioner may, by written notice given to an applicant or an associate of an applicant for a supplier's licence, require the applicant or associate to give the commissioner further information about the application within the reasonable time stated in the notice.
- (2) A notice under subsection (1) must relate to information the commissioner considers reasonable for considering and deciding the application.

**117 Change in circumstances of applicant**

- (1) This section applies to an applicant for a supplier'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 commissioner under this section by the applicant.
- (2) Within 7 days after the change, the applicant must give written notice of the change to the commissioner.

Maximum penalty—100 penalty units.

**118 Fresh disclosure affidavit by applicant**

- (1) This section applies to an applicant for a supplier'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 commissioner under this section by the applicant.

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- (2) Within 7 days after the change, the applicant must give a fresh disclosure affidavit to the commissioner.

Maximum penalty—100 penalty units.

### **119 Consideration of application**

The commissioner must consider an application for a supplier's licence as soon as practicable after receiving the application.

### **120 Investigations about application**

- (1) In considering an application for a supplier's licence, the commissioner must conduct the investigations the commissioner considers are necessary to help the commissioner decide—

- (a) whether the applicant is a suitable person to hold a supplier's licence of the kind applied for; and
- (b) if there is a disclosed associate for the applicant—whether the associate is a suitable person to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for.

- (2) Without limiting subsection (1), the commissioner may conduct the investigations the commissioner considers are necessary to help the commissioner decide whether a general associate of the applicant is a suitable person to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for.

### **122 Decision about application**

- (1) The commissioner may grant or refuse to grant an application for a supplier's licence.
- (2) Before making a decision, the commissioner may, by written notice given to the applicant, or a disclosed associate of the applicant, require the applicant or associate to give the

commissioner further information about the application within the reasonable time stated in the notice.

- (3) A notice under subsection (2) must relate to information the commissioner considers reasonable for making a decision about the application.
- (4) In making a decision, the commissioner—
  - (a) must have regard to—
    - (i) the suitability of the applicant to hold a supplier's licence of the kind applied for; and
    - (ii) for a person who is a disclosed associate of the applicant—the suitability of the person to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for; and
    - (iii) the matters the commissioner had regard to in considering the application under section 120; and
  - (b) may have regard to—
    - (i) the suitability of a general associate of the applicant to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for; and
    - (ii) other matters the commissioner considers relevant.
- (5) The commissioner may grant an application only if the commissioner is satisfied the grant is not contrary to the public interest.
- (6) The commissioner may refuse to grant an application if—
  - (a) the commissioner 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 commissioner within the time stated in the notice.

- (7) If the commissioner decides to grant the application, the commissioner must promptly issue the appropriate supplier's licence to the applicant on payment of the licence fee prescribed under a regulation.
- (8) If the commissioner decides to refuse to grant the application, the commissioner must promptly give the applicant an information notice about the decision.

### **123 Conditions of licences**

- (1) A supplier's licence is issued on the conditions the commissioner considers necessary or desirable—
  - (a) in the public interest; or
  - (b) for the proper conduct of gaming; or
  - (c) for the proper conduct of the licensed supplier's supply operations, including—
    - (i) for a licensed monitoring operator—its operations involving electronic monitoring systems; or
    - (ii) for a licensed testing facility operator—its operations involving the testing of gaming equipment.
- (2) If a supplier's licence is issued on conditions, the commissioner must promptly give the applicant an information notice about the commissioner's decision to impose the conditions.
- (3) The holder of a supplier's licence must not contravene a condition of the licence.

Maximum penalty—200 penalty units.

### **124 Form of licence**

- (1) A supplier'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.

### **125 Duration of licence**

- (1) A monitoring operator's licence remains in force for 10 years from its date of issue.
- (2) A dealer's licence remains in force for 5 years from its date of issue.
- (3) A testing facility operator's licence remains in force for 5 years from its date of issue.

### **126 Provisional licences**

- (1) The commissioner may grant to an applicant for a supplier's licence a provisional licence for the kind of licence applied for.
- (2) However, the commissioner may grant a provisional licence only if the commissioner considers—
  - (a) a decision about the applicant's application for a supplier's licence may not be made for some time; and
  - (b) the conduct of gaming may be prejudiced or disadvantaged if the applicant is not granted the provisional licence; and
  - (c) the issue of the provisional licence to the applicant will not prejudice or disadvantage gaming or the conduct of gaming.
- (3) The commissioner may grant a provisional licence—
  - (a) on conditions the commissioner considers necessary or desirable for the proper conduct of gaming; and

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- (b) on other conditions the commissioner considers necessary or desirable in the public interest.
  - (4) If the commissioner grants a provisional licence to a person, the commissioner must immediately issue the licence to the person.
  - (5) A provisional licence must be in the approved form.
  - (6) A provisional licence issued to an applicant for a supplier's licence remains in force until—
    - (a) a supplier's licence of the kind applied for is issued to the applicant; or
    - (b) the commissioner decides to refuse to grant the application; or
    - (c) the licence is surrendered or cancelled.
  - (7) While a provisional licence for a particular kind of supplier's licence is in force, it has the same effect, and this Act applies to the holder of the licence, as if the licence were a supplier's licence of that kind.

## **Division 4 Dealings affecting suppliers' licences**

### **127 Changing conditions of licence**

- (1) The commissioner may change the conditions of a supplier's licence if the commissioner 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 of the licensed supplier's supply operations, including—
    - (i) for a licensed monitoring operator—its operations involving electronic monitoring systems; or

- (ii) for a licensed testing facility operator—its operations involving the testing of gaming equipment.
- (2) If the commissioner decides to change the conditions, the commissioner must immediately give the licensed supplier—
  - (a) written notice of the changed conditions; and
  - (b) an information notice for the decision.
- (3) The change of the conditions—
  - (a) has effect from the day stated in the information 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 commissioner’s power to change the conditions of a supplier’s licence includes the power to add conditions to an unconditional licence.

## **128 Recording change of conditions**

- (1) A licensed supplier who receives an information notice under section 127(2) must return the supplier’s licence to the commissioner within 14 days after receiving the notice, unless the licensed supplier has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) On receiving the licence, the commissioner must—
  - (a) amend the licence in an appropriate way and return the amended licence to the licensed supplier; or
  - (b) if the commissioner does not consider it is practical to amend the licence—issue another supplier’s licence, incorporating the changed conditions, to the licensed supplier to replace the licence returned to the commissioner.

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**129 Extension of licence**

- (1) A licensed supplier may apply for an extension of the supplier's licence.
- (2) An application must—
  - (a) be made to the commissioner; 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 commissioner may, by written notice given to the licensed supplier, extend the term of the licence—
  - (a) only if the commissioner 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.

**130 Renewal of licence—application**

- (1) A licensed supplier may apply for renewal of its supplier's licence.
- (2) An application must—
  - (a) be made to the commissioner; 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 commissioner 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;

*Note—*

Section 182 deals with the requirements for disclosure affidavits.

- (c) the application fee prescribed under a regulation.

### **131 Renewal of licence—decision**

- (1) The commissioner must consider an application for renewal of a supplier's licence and renew, or refuse to renew, the licence.
- (2) The commissioner must renew the licence if the licensed supplier complies with section 130 and pays the licence renewal fee prescribed under a regulation.
- (3) If the commissioner refuses to renew the licence, the commissioner must promptly give the applicant an information notice for the decision to refuse to renew the licence.
- (4) The renewal of a licence is for the standard licence period 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.
- (5) In this section—

***standard licence period*** means—

  - (a) for a monitoring operator's licence—10 years; or
  - (b) for a dealer's licence—5 years; or
  - (c) for a testing facility operator's licence—5 years.

## 132 Replacement of licence

- (1) A licensed supplier may apply to the commissioner for the replacement of its supplier's licence if—
  - (a) the licence is lost, stolen, destroyed or damaged; or
  - (b) the licensee's name changes.
- (2) The application must be accompanied by—
  - (a) the fee prescribed under a regulation for issuing a replacement licence; and
  - (b) for a lost licence application based on damage or a name change application—the licensed supplier's current licence.
- (3) The commissioner must consider the application and either—
  - (a) replace the licence by issuing another supplier's licence to the applicant with, for a name change application, the name of the licensed supplier changed to reflect the licensed supplier's current name; or
  - (b) refuse to replace the licence.
- (4) The commissioner must replace the licence if—
  - (a) for a lost licence application—the commissioner is satisfied the licence—
    - (i) has been lost, stolen or destroyed; or
    - (ii) has been damaged in a way to require its replacement; or
  - (b) for a name change application—the commissioner is satisfied the change of name has taken place.
- (5) If, on a lost licence application, the commissioner refuses to replace the licence, the commissioner must immediately give the applicant an information notice for the decision.
- (6) If, on a name change application, the commissioner refuses to replace the licence, the commissioner must immediately give the applicant a written notice stating the decision and the reason for the decision.

(7) In this section—

*lost licence application* means an application under this section made on a ground mentioned in subsection (1)(a).

*name change application* means an application under this section made on the ground mentioned in subsection (1)(b).

### **133 Licence not transferable**

A supplier's licence is not transferable.

### **134 Surrender of licence**

- (1) A licensed supplier may surrender its supplier's licence by written notice given to the commissioner.
- (2) The notice must—
  - (a) be in the approved form; and
  - (b) be accompanied by the licence.
- (3) The commissioner must give the licensed supplier a notice stating the day the surrender is to take effect.
- (4) The day stated by the commissioner 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.
- (5) If the licensed supplier is a licensed monitoring operator, the licensed supplier must give a copy of the notice of surrender to—
  - (a) any licensee to whom the licensed supplier is supplying basic monitoring services; and
  - (b) any other licensed monitoring operator using the electronic monitoring system of the licensed supplier, or a part of the system, to supply basic monitoring services to licensees.

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

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## **Division 5                      Investigation of licensed suppliers and associates**

### **135      Approving audit programs**

- (1) The Minister may approve—
  - (a) an audit program for investigating licensed suppliers;  
and
  - (b) an audit program for investigating associates of licensed suppliers.
- (2) An audit program approved by the Minister may not provide for the investigation of persons under the program at intervals of less than 2 years.

### **136      Conducting investigations**

- (1) The commissioner may investigate a licensed supplier to help the commissioner decide whether the licensed supplier is a suitable person to hold the supplier's licence.
- (2) The commissioner may investigate an associate of a licensed supplier to help the commissioner decide whether the associate is a suitable person to be associated with the licensed supplier's supply operations.
- (3) However, the commissioner may investigate a licensed supplier only if—
  - (a) the investigation is conducted under a suppliers audit program; or
  - (b) the commissioner reasonably suspects the licensed supplier is not a suitable person to hold the supplier's licence.
- (4) Also, the commissioner may investigate an associate of a licensed supplier only if—
  - (a) the investigation is conducted under an associates (suppliers) audit program; or

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- (b) the commissioner reasonably suspects the associate is not a suitable person to be associated with the licensed supplier's supply operations; or
  - (c) for an associate who became an associate of the licensed supplier after the issue of its supplier's licence—the associate has not been investigated previously under an associates (suppliers) audit program; or
  - (d) for an associate who was an associate of the licensed supplier when the supplier's licence was issued—the associate has not been investigated under section 120.
- (5) The commissioner must ensure the investigation of a person under a suppliers audit program or associates (suppliers) audit program is conducted in compliance with the program.

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

- (1) The commissioner may, by written notice given to a person to whom an investigation under this division relates, require the person to give the commissioner information or material the commissioner considers is relevant to the investigation.
- (2) When making the requirement, the commissioner must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

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

- (1) A person of whom a requirement is made under section 137 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (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.

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

## **Division 6                      Suspension and cancellation of suppliers' licences**

### **139      Grounds for suspension or cancellation**

- (1) A ground for suspending or cancelling a supplier's licence exists if the licensed supplier, or an associate of the licensed supplier—
- (a) is convicted of an offence against this Act; or
  - (b) is convicted of an indictable offence 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
  - (ba) is required to comply with any written direction given to the licensee or associate by the commissioner, and fails to comply with the direction; or
  - (bb) is required under this Act to supply information or material to the commissioner 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 or misleading in a material particular; or
  - (c) contravenes a provision of this Act (not being a provision a contravention of which is an offence against this Act, or a provision imposing a requirement of a kind mentioned in paragraph (ba) or (bb)); or
  - (d) fails to discharge the licensed supplier's, or associate's, financial commitments; or
  - (e) is affected by control action under the Corporations Act; or

- (f) helps or induces a licensee to do or fail to do something that constitutes a ground for suspending or cancelling the licensee's gaming machine licence.

*Note—*

See section 97.

- (2) Also, a ground for suspending or cancelling the supplier's licence exists if—
  - (a) the licensed supplier is not a suitable person to hold the supplier's licence; or
  - (b) an associate of the licensed supplier is not a suitable person to be associated with the licensed supplier's supply operations; or
  - (c) the licensed supplier contravenes a condition of the licence; or
  - (d) the licence was issued because of a materially false or misleading representation or declaration; or
  - (e) the licensed supplier is a licensed testing facility operator and gives the commissioner a written report of a test of gaming equipment that the supplier knows is false or misleading in a material particular.

#### **140 Show cause notice**

- (1) This section applies if the commissioner believes—
  - (a) a ground exists to suspend or cancel a supplier'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 commissioner must give the licensed supplier a written notice (a *show cause notice*)—

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- (a) stating that action (the *proposed action*) is proposed to be taken under this division about the supplier'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 licensed supplier to show within a stated period (the *show cause period*) why the proposed action should not be taken; and
  - (e) if the licensed supplier is a licensed monitoring operator—stating any requirements made of the licensed supplier by the commissioner under section 141(3).
- (3) The show cause period must end not less than 21 days after the show cause notice is given to the licensed supplier.
  - (4) The licensed supplier may make written representations about the show cause notice to the commissioner in the show cause period.

**141 Involvement of interested persons of licensed monitoring operators in show cause process**

- (1) This section applies only if the licensed supplier to whom the show cause notice is given is a licensed monitoring operator.
- (2) The commissioner must give a copy of the show cause notice to each person the commissioner believes is an interested person of the licensed supplier.
- (3) Also, the commissioner may, by the show cause notice—
  - (a) require the licensed supplier, within the period stated in the notice, to give a copy of the notice to each interested person of the licensed supplier (other than an interested person to whom a copy of the notice is given under subsection (2)); and
  - (b) if the commissioner considers it appropriate—require the licensed supplier to give the copy in the way the commissioner considers appropriate.

- (4) If a requirement under subsection (3)(a) relates to an indirectly interested person of the licensed supplier, the commissioner may, at the licensed supplier's request, by written notice given to the licensed supplier, designate the person to be an excluded interested person for the licensed supplier.
- (5) However, the commissioner may designate a person to be an excluded interested person for the licensed supplier only if the commissioner considers it would not be appropriate, or would be unreasonable, in the circumstances to require the licensed supplier to give a copy of the show cause notice to the person, having regard to the following issues—
  - (a) the nature of the person's interest;
  - (b) the likelihood of the person's interest not being affected adversely by a suspension or cancellation of the supplier's licence;
  - (c) the likelihood of the licensed supplier's interest being improperly prejudiced;
  - (d) another issue the commissioner considers relevant.
- (6) If a requirement is made of the licensed supplier under subsection (3), the licensed supplier must comply with the requirement, unless—
  - (a) the licensed supplier has a reasonable excuse; or
  - (b) the interested person to whom the requirement relates is an excluded interested person for the licensed supplier.

Maximum penalty—40 penalty units.

- (7) An interested person to whom a copy of the show cause notice is given, or is required to be given, under this section may make written representations about the notice to the commissioner in the show cause period.

## 142 Consideration of representations

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

- (a) the licensed supplier; or
- (b) if the licensed supplier is a licensed monitoring operator—an interested person of the licensed supplier to whom a copy of the show cause notice is given, or is required to be given.

## 143 Ending show cause process without further action

- (1) This section applies if, after considering the accepted representations for the show cause notice, the commissioner no longer believes a ground exists to suspend or cancel the supplier's licence.
- (2) The commissioner must not take further action about the show cause notice and, by written notice, must advise the licensed supplier accordingly.

## 144 Censuring licensed supplier

- (1) This section applies if, after considering the accepted representations for the show cause notice, the commissioner—
  - (a) still believes a ground exists to suspend or cancel the supplier's licence; but
  - (b) does not believe suspension or cancellation of the licence is warranted.
- (2) This section also applies if the commissioner has not given a show cause notice to a licensed supplier, but—
  - (a) believes a ground exists to suspend or cancel the supplier's licence; and
  - (b) does not believe the giving of a show cause notice is warranted.

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

#### **145 Direction to rectify**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the commissioner—
  - (a) still believes a ground exists to suspend or cancel the supplier's licence; and
  - (b) believes further action, other than censuring of the licensed supplier, is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The commissioner may—
  - (a) by written notice given to the licensed supplier, direct the licensed supplier 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 147.
- (4) The period stated in the notice must be reasonable, having regard to the nature of the matter to be rectified.
- (5) The commissioner may direct the licensed supplier to rectify a matter only if the commissioner considers—
  - (a) the matter is reasonably capable of being rectified; and
  - (b) it is appropriate to give the licensed supplier an opportunity to rectify the matter.

#### **147 Decision to suspend or cancel**

- (1) This section applies if—

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- (a) the circumstances mentioned in section 145(1) or (2) exist and the commissioner has not directed the licensed supplier to rectify a matter; or
  - (b) the licensed supplier fails to comply with a direction to rectify a matter within the period stated in the relevant notice.
- (2) The commissioner may—
- (a) decide not to take any action in relation to the licensed supplier or licence; or
  - (b) by written notice given to the licensed supplier, censure the licensed supplier for a matter relevant to the show cause notice; or
  - (c) if the commissioner considers a matter relevant to the show cause notice is reasonably capable of being rectified—by written notice given to the licensed supplier, direct the licensed supplier to rectify the matter within the reasonable period stated in the commissioner’s notice; or
  - (d) suspend the licence for the period the commissioner considers appropriate; or
  - (e) cancel the licence; or
  - (f) if the licensed supplier is a licensed monitoring operator—appoint an administrator to conduct the monitoring operations of the licensed supplier under its monitoring operator’s licence.
- (3) In making a decision under subsection (2), the commissioner—
- (a) must have regard to the accepted representations; and
  - (b) may have regard to any other information or material the commissioner considers relevant.
- (4) If the commissioner directs the licensed supplier to rectify a matter and the licensed supplier fails to comply with the direction within the period stated in the relevant notice, the commissioner may—

- (a) take the action mentioned in subsection (2)(d) or (e); or
  - (b) if the licensed supplier is a licensed monitoring operator—take the action mentioned in subsection (2)(f).
- (5) If the commissioner decides not to take any action about the licensed supplier or supplier's licence, the commissioner must immediately give the licensed supplier written notice of the decision.
- (6) Subsections (2)(f) and (4)(b) apply despite the Corporations Act.

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

- (1) This section applies if the commissioner decides—
- (a) to suspend or cancel a supplier's licence held by a licensed supplier; or
  - (b) for a licensed supplier who is a licensed monitoring operator—to appoint an administrator to conduct the licensed supplier's monitoring operations.
- (2) The commissioner must immediately give the licensed supplier an information notice for the decision.
- (3) The decision takes effect on—
- (a) the day the information notice is given to the licensed supplier; or
  - (b) if a later day is stated in the notice—the later day.
- (4) If a supplier'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 commissioner.

Maximum penalty—40 penalty units.

- (5) At any time a suspension of a supplier's licence is in force, the commissioner may, by written notice given to the licensed supplier, for any remaining period of suspension—

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

#### **149 Immediate suspension**

- (1) The commissioner may immediately suspend a supplier's licence if the commissioner 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) If the commissioner decides to immediately suspend a supplier's licence, the commissioner—
  - (a) must promptly give the licensed supplier an information notice; and
  - (b) must give the licensed supplier a show cause notice, as required under section 140(1), about the act, omission or other thing constituting the ground for suspending the licence.
- (3) The suspension of a supplier's licence—
  - (a) takes effect—
    - (i) when the information notice is given to the licensed supplier; or
    - (ii) if an earlier notice of the suspension is given orally to the licensed supplier by the commissioner—when the oral notice is given to the licensed supplier; and
  - (b) continues to operate until the show cause notice is finally dealt with.

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

### **150 Effect of suspension**

The suspension of a supplier'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 supplier; or
- (b) the exercise of the powers of the commissioner or an inspector.

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

- (1) This section applies if the commissioner appoints an administrator to conduct the monitoring operations of a licensed monitoring operator.
- (2) For any matter not provided for under this Act, the administrator holds office on terms decided by the commissioner.
- (3) The administrator—
  - (a) has full control of, and responsibility for, the monitoring operations (including operations relating to anything that had been started but not finished at the time of the administrator's appointment); and
  - (b) subject to any directions of the Minister, must conduct the monitoring operations as required by this Act as if the administrator were the licensed monitoring operator.
- (4) The costs of and incidental to the conduct and administration of the monitoring operations by the administrator (the *administration costs*) are payable by the licensed monitoring operator.
- (5) Any profits derived from the conduct of the monitoring operations by the administrator are, after payment of the administration costs, to be paid to the licensed monitoring operator.

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## 152 Notices to interested persons

- (1) This section applies if the commissioner—
  - (a) is required, under section 143(2), not to take further action about a show cause notice given to a licensed supplier under section 140(2); or
  - (b) censures a licensed supplier under section 144(3); or
  - (c) directs a licensed supplier to rectify a matter under section 145(3).
- (2) This section also applies if, under section 147(2), the commissioner—
  - (a) decides not to take any action about a licensed supplier or supplier's licence; or
  - (b) censures a licensed supplier; or
  - (c) directs a licensed supplier to rectify a matter; or
  - (d) suspends or cancels a supplier's licence; or
  - (e) appoints an administrator to conduct the monitoring operations of a licensed monitoring operator.
- (3) This section also applies if the commissioner—
  - (a) suspends or cancels a supplier's licence under section 147(4); or
  - (b) appoints an administrator under section 147(4) to conduct the monitoring operations of a licensed monitoring operator; or
  - (c) suspends a supplier's licence under section 149(1).
- (4) However, this section applies only if the licensed supplier is a licensed monitoring operator and—
  - (a) the commissioner gave a copy of the relevant show cause notice to a person under section 141; or
  - (b) the licensed supplier gave, or was required to give, a copy of the relevant show cause notice to a person because of a requirement made of the licensed supplier under section 141.

- (5) If the commissioner took the action mentioned in subsection (4)(a) in relation to a person, the commissioner must, as soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, give written notice of the event to the person.
- (6) If the licensed supplier took, or was required to take, the action mentioned in subsection (4)(b) in relation to a person, the licensed supplier must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to the person.
- (7) For subsections (5) and (6), an event for subsection (1)(a) is taken to be the arising of a requirement mentioned in the paragraph.
- (8) In this section—

***show cause result notice*** means—

- (a) a written notice given by the commissioner advising of—
  - (i) the arising of a requirement mentioned in subsection (1)(a); or
  - (ii) the making of a decision mentioned in subsection (2)(a); or
  - (iii) the taking of action mentioned in subsection (2)(d) or (e) or (3)(a), (b) or (c); or
- (b) the notice by which action mentioned in subsection (1)(b) or (c) or (2)(b) or (c) is taken.

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## **Division 7                      Obligations of licensed suppliers**

### **Subdivision 1                Obligations for all licensed suppliers**

#### **153      Change in circumstances of licensed supplier**

- (1) A licensed supplier must, within 7 days after the happening of an event mentioned in subsection (2), give written notice of the event to the commissioner.

Maximum penalty—100 penalty units.

- (2) The events required to be notified by the licensed supplier are as follows—
- (a) the licensed supplier changes its name or address;
  - (b) the licensed supplier is convicted of—
    - (i) an offence against this Act; or
    - (ii) an indictable offence 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 licensed supplier is affected by control action under the Corporations Act.

#### **154      Fresh disclosure affidavit by licensed supplier**

- (1) This section applies to a licensed supplier if a change happens affecting information contained in—
- (a) the disclosure affidavit that accompanied the application for its supplier's licence; or
  - (b) a disclosure affidavit, or the last disclosure affidavit, given to the commissioner under section 118 by the licensed supplier; or

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- (c) a disclosure affidavit, or the last disclosure affidavit, given to the commissioner under this section by the licensed supplier.
- (2) Within 7 days after the change, the licensed supplier must give a fresh disclosure affidavit to the commissioner.

Maximum penalty—100 penalty units.

### **155 Change of officers of licensed supplier**

- (1) This section applies to a licensed supplier if a change happens by which a person stops being, or becomes, the secretary or an executive officer of the licensed supplier.
- (2) The licensed supplier must, as required by this section, notify the commissioner of—
  - (a) the change; and
  - (b) the name, address and date of birth of the person involved in the change.

Maximum penalty—40 penalty units.

- (3) The notice must—
  - (a) be in the approved form; and
  - (b) be given within 7 days after the change.

### **156 Returns about employees**

- (1) A licensed supplier, other than a licensed testing facility operator, must give the commissioner a return as required under section 183 stating the name of each person employed by the licensed supplier for the supply operations of the licensed supplier when the return is given.

Maximum penalty—40 penalty units.

- (2) However, if the licensed supplier is a licensed monitoring operator, the licensed supplier is not required to state under subsection (1) in the return—

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- (a) the name of a person employed by the licensed supplier as a licensed key monitoring employee; or
  - (b) the name of a person employed by the licensed supplier as a licensed repairer.

### **157 Notice about failure of licensee to pay amount**

- (1) This section applies if a licensee fails to pay to a licensed supplier, on or before the due date for payment, an amount or a part of an amount (other than a basic monitoring fee) payable by the licensee to the licensed supplier for a matter relating to the supply operations of the licensed supplier.
- (2) The licensed supplier must give the commissioner a notice as required under section 184 advising of the licensee's failure to pay the amount, or the part of the amount, on or before the due date for payment.

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

## **Subdivision 2 Additional obligations for licensed monitoring operators**

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

A licensed monitoring operator must give the commissioner a return as required under section 183 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.

### **159 Change of licensed key monitoring employees**

- (1) This section applies to a licensed monitoring 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 monitoring operator must give the commissioner 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 monitoring operator as a licensed key monitoring employee.

### **160 Ending person's employment**

- (1) If a licensed monitoring 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.

- (2) Subsection (1) applies despite another Act or law or any award or agreement of an industrial nature.
- (3) A licensed monitoring operator does not incur any liability because the operator ends the employment of a person under subsection (1).

### **161 Requirement to end key officer's role**

- (1) This section applies if—

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- (a) a key monitoring employee's licence held by a key officer for a licensed monitoring operator is cancelled or suspended; or
  - (b) a key officer for a licensed monitoring operator ceases to hold a key monitoring employee's licence for some other reason.
- (2) The commissioner may, by written notice given to the licensed monitoring operator, require the operator to take any action that is necessary and reasonable to ensure the person ceases to be a key officer for the operator within the time stated in the notice.
  - (3) The licensed monitoring operator must comply with the requirement, unless the operator has a reasonable excuse.  
Maximum penalty—40 penalty units.
  - (4) This section applies to a licensed monitoring operator despite any other Act or law.
  - (5) A licensed monitoring operator does not incur any liability because of action taken to comply with a requirement under this section.

**162 Notice about failure of licensee to pay basic monitoring fee**

- (1) This section applies if a licensee fails to pay to a licensed monitoring operator, on or before the due date for payment, a basic monitoring fee, or a part of a basic monitoring fee, payable by the licensee to the operator for basic monitoring services supplied by the operator to the licensee.
- (2) The licensed monitoring operator must give the commissioner a notice as required under section 184 advising of the licensee's failure to pay the fee, or the part of the fee, on or before the due date for payment.

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

## **Division 8                      Compliance requirements**

### **Subdivision 1                Control systems**

#### **162A    Application of sdiv 1**

This subdivision does not apply to a licensed testing facility operator.

#### **163      Control system for supply operations**

- (1) A licensed supplier must not conduct the supplier's supply operations unless the supplier has a control system complying with section 164 for the operations.

Maximum penalty—200 penalty units.

- (2) The licensed supplier must not contravene its control system in the conduct of its supply operations.

Maximum penalty—200 penalty units.

- (3) A licensed supplier must, on request by the commissioner, make its control system available for inspection by the commissioner.

Maximum penalty—200 penalty units.

#### **164      Requirements for control system**

- (1) A licensed supplier's control system for supply operations must—

- (a) be in writing; and
- (b) include details about each matter stated in subsection (2) for the supply operations, to the extent the matter relates to the internal controls to be put in place by the supplier to protect the integrity of gaming and the conduct of gaming.

- (2) For subsection (1)(b), the matters are—

- (a) accounting systems and procedures; and
- (b) administrative systems and procedures; and
- (c) computer software; and
- (d) systems and procedures for the maintenance, security, storage and transportation of equipment; and
- (e) systems and procedures for using and maintaining security facilities; and
- (f) the general procedures to be followed for the supply operations.

**165 Commissioner may give direction about content of control system**

- (1) This section applies if the commissioner considers a licensed supplier's control system is insufficient for protecting the integrity of gaming and the conduct of gaming.
- (2) The commissioner may, by written notice to the supplier, direct the supplier to include in its control system additional details about 1 or more matters mentioned in section 164(2) within the reasonable period, and in the way, stated in the notice.
- (3) If the supplier does not comply with the direction, at the end of the period stated in the notice the supplier's control system is taken to have been changed in the way stated in the notice.

**Subdivision 2 Monitoring records**

**168 Notices about keeping monitoring records**

- (1) The commissioner may, by written notice given to a licensed supplier—
  - (a) approve, as a place at which the supplier may keep the supplier's monitoring records, a place, other than the supplier's main office, nominated by the supplier; or

- (b) specify a monitoring record of the supplier (an *exempt record*) that may be kept at a place that is not an approved place for the keeping of the record; or
  - (c) specify a monitoring record of the supplier that may be kept temporarily at a place (a *holding place*) that is not an approved place for the keeping of the record, and the period for which, or the circumstances in which, the record may be kept at the holding place; or
  - (d) approve the keeping of information contained in a monitoring record of the supplier in a way different from the way the information was originally kept; or
  - (e) approve the destruction of a monitoring record the commissioner considers need not be kept.
- (2) The commissioner may specify a monitoring record for subsection (1)(b) only if the commissioner considers there is sufficient reason for the record to be kept at a place that is not an approved place for the keeping of the record.
- (3) A monitoring record mentioned in subsection (1)(c) is also an *exempt monitoring record*—
- (a) for the period stated in the notice; or
  - (b) while the circumstances stated in the notice exist.
- (4) The exercise of the commissioner's power under subsection (1)(d) or (e) is subject to any other law about the retention or destruction of the monitoring record.

**169 Places at which monitoring records to be kept**

- (1) A licensed supplier must keep the supplier's monitoring records at a place that is an approved place for the keeping of the records.
- Maximum penalty—40 penalty units.
- (2) Subsection (1) does not apply to an exempt monitoring record.

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**170 Period for which monitoring records to be kept**

- (1) A licensed supplier must keep a monitoring record of the supplier for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a monitoring record if—
- (a) the information previously contained in the record is kept in another way under an approval of the commissioner; or
  - (b) the record has been destroyed under an approval of the commissioner.
- (3) Subsection (1) has effect subject to any other law about the retention or destruction of the monitoring record.

**Subdivision 3 Financial accounts, statements and reports**

**171 Keeping of accounts**

A licensed monitoring operator must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the operator's monitoring operations; and
- (b) keep the accounting records in a way that allows—
  - (i) true and fair financial statements and accounts to be prepared from time to time; and
  - (ii) the financial statements and accounts to be conveniently and properly audited.

Maximum penalty—100 penalty units.

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

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

Maximum penalty—100 penalty units.

- (2) The financial statements and accounts must include the following—
  - (a) trading accounts, if applicable, for each financial year;
  - (b) profit and loss accounts for each financial year;
  - (c) a balance sheet as at the end of each financial year.

## **173 Submission of reports**

- (1) A licensed supplier must give reports to the commissioner as required by this section about the supplier's supply operations.

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

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

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Maximum penalty—200 penalty units.

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

## **Subdivision 4      Financial institution accounts**

### **174      Keeping of accounts**

A licensed monitoring operator must keep a financial institution account, or financial institution accounts, approved by the commissioner for use for all banking or similar transactions for the operator's monitoring operations.

Maximum penalty—40 penalty units.

### **175      Use of accounts**

A licensed monitoring operator must not use a financial institution account approved by the commissioner other than for a purpose for which it is approved.

Maximum penalty—40 penalty units.

## **Subdivision 5      Audit**

### **176      Operators audit guidelines**

- (1) The commissioner may prepare guidelines (*operators audit guidelines*) for the carrying out of audits under this subdivision.
- (2) The commissioner must keep copies of the operators audit guidelines available for inspection and permit a person—
  - (a) to inspect the guidelines without fee; and
  - (b) to take extracts from the guidelines without fee.
- (3) Also, the commissioner must keep copies of the operators audit guidelines available for supply to persons and permit a person to obtain a copy of the guidelines, or a part of the guidelines, without fee.
- (4) For subsection (2)—
  - (a) copies of the operators audit guidelines—
    - (i) must be kept at the head office and any regional office of the department; and
    - (ii) may be kept at any other place the commissioner considers appropriate; and
  - (b) the copies of the guidelines kept at a place must be available for inspection during office hours on business days for the place.

### **177      Audit of monitoring operations**

- (1) As soon as practicable after the end of a financial year, a licensed monitoring operator must, at the operator's own expense, cause the operator's books, accounts and financial statements for the operator's monitoring operations for the financial year to be audited by a registered company auditor approved by the commissioner.

Maximum penalty—200 penalty units.

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- (2) If a licensed monitoring operator ceases to be a licensed monitoring operator, the person (the *former operator*) must, within the required time, at the former operator's own expense, take the appropriate audit action.

Maximum penalty—200 penalty units.

- (3) The appropriate audit action for subsection (2) is for the former operator to cause the former operator's books, accounts and financial statements for the former operator's monitoring operations for the operating period to be audited by a registered company auditor approved by the commissioner.
- (4) The required time for the former operator to take the appropriate audit action is—
- (a) the period ending 1 month after the former operator ceases to be a licensed monitoring operator; or
  - (b) if the commissioner extends, or further extends, the period for the former operator to take the action, by written notice given to the former operator in the period or extended period—the period as extended.

- (5) In this section—

*operating period*, for a former operator, means—

- (a) if an audit for the former operator's monitoring operations has been done for subsection (1)—the period—
  - (i) starting on the day immediately after the end of the period to which the audit, or last audit, related; and
  - (ii) ending on the day the former operator ceased to be a licensed monitoring operator; or
- (b) if paragraph (a) does not apply—the period starting on the day the former operator's monitoring operations started and ending on the day the former operator ceased to be a licensed monitoring operator.

**178 Carrying out of audit**

- (1) A registered company auditor carrying out an audit for section 177 must—
  - (a) to the extent it is reasonably practicable, comply with any operators audit guidelines; and
  - (b) complete the audit within 3 months after the end of the financial year or other period to which the audit relates; and
  - (c) immediately after completing the audit, give a copy of the audit report to the licensed monitoring operator or former operator.

Maximum penalty—40 penalty units.

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

**179 Dealing with audit report**

Within 14 days after a licensed monitoring operator or former operator receives a copy of an audit report under section 178(1)(c), the operator or former operator must give a copy of the report to the commissioner.

Maximum penalty—200 penalty units.

**180 Associated documents for audit report for licensed monitoring operator**

- (1) A licensed monitoring operator, on receiving a copy of an audit report under section 178(1)(c) for a financial year, must, in addition to giving a copy of the report to the commissioner under section 179, give to the commissioner, as required under this section—

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- (a) if the registered company auditor who carried out the audit issued a management letter for the audit—a copy of the management letter; and
  - (b) a copy of the audited financial statements for the operator's monitoring operations for the financial year; and
  - (c) a copy of a profit and loss statement containing the required details of revenue and expenditure for the operator's monitoring operations for the financial year; and
  - (d) if an entity controls the licensed monitoring operator—a copy of the consolidated financial statements for the entity.

Maximum penalty—200 penalty units.

- (2) A document mentioned in subsection (1)(a) must be given to the commissioner with the copy of the audit report given to the commissioner.
- (3) A document mentioned in subsection (1)(b) to (d) must be given to the commissioner—
  - (a) if the licensed monitoring operator's annual general meeting for the financial year was held before the operator received the copy of the audit report—with the copy of the audit report given to the commissioner; or
  - (b) if paragraph (a) does not apply—within 14 days after the licensed monitoring operator's annual general meeting for the financial year is held.
- (4) Subsection (1) applies to the licensed monitoring operator for a profit and loss statement only to the extent to which the audited financial statements given to the commissioner do not contain the required details of revenue and expenditure for the operator's monitoring operations for the relevant financial year.
- (5) In this section—
 

**control** see the Corporations Act, section 50AA.

***required details of expenditure***, for the monitoring operations of a licensed monitoring operator for a financial year, means details of expenditure incurred by the operator for the year for a matter in carrying on the monitoring operations, including, for example—

- (a) the payment of wages; and
- (b) the payment of consultancy fees; and
- (c) the supply of gaming equipment, or ancillary or related equipment; and
- (d) the acquisition, supply, maintenance or use of information technology (whether or not, in the case of maintenance, it is being used by the operator or someone else, or, in the case of use, it is the operator's or someone else's technology).

***required details of revenue***, for the monitoring operations of a licensed monitoring operator for a financial year, means details of revenue received by the operator for the year for a matter in carrying on the monitoring operations, including, for example—

- (a) the supply of basic monitoring services; and
- (b) the supply of information technology for use for supplying basic monitoring services; and
- (c) the supply of gaming equipment, or ancillary or related equipment; and
- (d) the supply of services relating to any of the following matters (whether or not the services are associated with the supply of equipment)—
  - (i) training;
  - (ii) marketing;
  - (iii) linked jackpot arrangements;
  - (iv) the giving of advice about management.

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**181 Further information about audit report or associated documents**

- (1) This section applies on the receipt by the commissioner of—
  - (a) a copy of an audit report under section 179; or
  - (b) a document under section 180.
- (2) The commissioner may, by written notice given to the person from whom the copy of the audit report or other document is received, require the person to give the commissioner, within a reasonable time stated in the notice, the information stated in the notice.
- (3) The commissioner may require a person to give the commissioner information about a matter under subsection (2) only if—
  - (a) the matter relates to the person's monitoring operations; and
  - (b) the matter is mentioned in, or arises out of—
    - (i) the audit report a copy of which is received by the commissioner from the person; or
    - (ii) the other document received by the commissioner from the person.
- (4) When making a requirement of a person under subsection (2), the commissioner must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (5) A person to whom a notice is given under subsection (2) must comply with the requirement mentioned in the notice within the stated time, unless the person has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (6) 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.

## **Division 9                      Other matters**

### **182      Disclosure affidavits about persons having influence or receiving benefits**

- (1) This section applies to each of the following affidavits (a *disclosure affidavit*)—
  - (a) an affidavit required by section 115(3) to accompany an application made by a person for a supplier's licence;
  - (b) an affidavit required by section 118 to be given to the commissioner by an applicant for a supplier's licence;
  - (c) an affidavit required by section 130 to accompany an application for renewal of a supplier's licence made by the licensed supplier;
  - (d) an affidavit required by section 154 to be given to the commissioner by a licensed supplier.
- (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 supplier mentioned in subsection (1)(c) or (d).
- (3) The affidavit must be in the approved form and 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—
  - (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 supplier'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 supplier's licence;
  - (c) the names of all persons who have a substantial holding in the responsible body.
- (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.

## 183 Requirements for returns about employees

- (1) This section applies to—

- (a) a return required to be given to the commissioner under section 156 by a licensed supplier (the *licensed entity*); or
  - (b) a return required to be given to the commissioner under section 158 by a licensed monitoring operator (also the *licensed entity*).
- (2) The return must—
- (a) be in the approved form; and
  - (b) be given within 14 days after the licensed entity receives a written request from the commissioner to give the return.
- (3) However, the commissioner must not, for subsection (2)(b), ask a licensed entity to give the commissioner a return under section 156 or 158 within 1 month after the time by which the licensed entity was last required to give a return under the section.

#### **184 Requirements for notices about unpaid amounts**

- (1) This section applies to—
- (a) a notice required to be given to the commissioner by a licensed supplier under section 157; or
  - (b) a notice required to be given to the commissioner by a licensed monitoring operator under section 162.
- (2) The notice must—
- (a) be in writing; and
  - (b) be given within 1 month after the due date for payment of the fee or other amount to which the notice relates.
- (3) The notice must state—
- (a) the matter for which the fee or other amount to which the notice relates is payable; and
  - (b) the due date for payment; and
  - (c) the amount involved; and

- (d) whether or not, when the notice is given, the fee or other amount, or a part of the fee or other amount, remains unpaid.

## **Part 5                      Licensing of repairers, service contractors, gaming nominees and key monitoring employees**

### **Division 1                      Preliminary**

#### **185      Meaning of *key monitoring employee***

- (1) A person employed by a licensed monitoring operator for the operator's monitoring operations is a *key monitoring employee* of the operator if the person—
  - (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to the operations; or
  - (b) is in a position to affect or significantly influence the operations; or
  - (c) occupies or acts in a position designated in the operator's control system as a key position.
- (2) Subsection (1)(a) applies to a position only if the position is designated by the commissioner as a key position.
- (3) Subsection (1)(a) applies to functions only if the functions are designated by the commissioner as key functions.
- (4) Subsection (1)(b) applies to an employee of a licensed monitoring operator only if the employee is designated by the commissioner as being in a key position.
- (5) A designation of the commissioner for subsection (2), (3) or (4) must be made by written notice given to the licensed monitoring operator.

**186 Meaning of *key officer***

A person is a *key officer* of a licensed monitoring operator if the person is a person (other than a person employed by the operator) who—

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

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

- (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.

- (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.

- (3) This section does not apply to such installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of this subsection.

## **188 Entering into service contracts**

(1) A person must not enter into a service contract with a licensed monitoring operator or the commissioner unless the person is—

- (a) an authorised service provider; or
- (b) a licensee.

Maximum penalty—100 penalty units.

(2) A person must not enter into a service contract with an authorised service provider unless the person is—

- (a) a licensed monitoring operator; or
- (b) a gaming trainer.

Maximum penalty—100 penalty units.

(3) A person must not enter into a service contract with a licensee unless the person is a licensed monitoring operator.

Maximum penalty—100 penalty units.

(4) A person must not enter into an agreement with an authorised service provider to subcontract a service contract from the authorised service provider unless the person is an authorised service provider.

Maximum penalty—100 penalty units.

(5) An authorised service provider must not enter into an agreement with another person to subcontract a service contract to the other person unless the other person is an authorised service provider.

Maximum penalty—100 penalty units.

(6) An authorised service provider to whom a service contract is subcontracted under an agreement with another authorised service provider must not subcontract the service contract.

Maximum penalty—100 penalty units.

(7) A person must not enter into an agreement with a licensed monitoring operator to subcontract a service contract from the operator unless the person is a licensed monitoring operator.

Maximum penalty—100 penalty units.

- (8) A licensed monitoring operator must not enter into an agreement with another person to subcontract a service contract to the other person unless the other person is a licensed monitoring operator.

Maximum penalty—100 penalty units.

- (9) A licensed monitoring operator to whom a service contract is subcontracted under an agreement with another licensed monitoring operator must not subcontract the service contract.

Maximum penalty—100 penalty units.

- (10) In this section—

*authorised service provider* means—

- (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.

### **189 Requirements for carrying out gaming duties on licensed premises**

- (1) A person must not carry out gaming duties on licensed premises unless the person is—

- (a) a gaming employee; or  
(b) an eligible licensee for the premises.

Maximum penalty—200 penalty units.

*Note—*

See also section 189A(1).

- (2) A licensee who is not an eligible licensee must ensure that, when the licensee's licensed premises are open for the conduct of gaming, at least 1 person employed by the licensee for carrying out gaming duties for the premises who holds a current responsible service of gambling course certificate is present on the premises or is readily available for carrying out the duties for the premises.

Maximum penalty—200 penalty units.

- (3) An eligible licensee must ensure that, when the licensee's licensed premises are open for the conduct of gaming, the licensee, or at least 1 person employed by the licensee for carrying out gaming duties for the premises who holds a current responsible service of gambling course certificate, is present on the premises or is readily available for carrying out gaming duties for the premises.

Maximum penalty—200 penalty units.

- (4) For subsection (2), a nominee of a licensee in the licensee's employ is taken to be a person in the licensee's employ for carrying out gaming duties for the premises for which the person is the licensee's nominee.

- (5) In this section—

*eligible licensee*, for licensed premises, means the licensee for the premises if the licensee—

- (a) is an individual; and
- (b) is ordinarily present on the premises when the premises are open for the conduct of gaming.

### **189A Requirement to hold current responsible service of gambling course certificate**

- (1) Without limiting section 189(1), a person must not carry out gaming duties or gaming tasks on licensed premises unless the person holds a current responsible service of gambling course certificate.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply—
  - (a) for a person who becomes an eligible licensee for the premises after the commencement of this section—until 3 months after the person becomes an eligible licensee for the premises; or
  - (b) for a person who becomes a nominee of the licensee for the premises after the commencement of this section—

until 3 months after the person becomes a nominee of the licensee for the premises; or

- (c) for a person who starts to be employed by the licensee to carry out gaming duties or gaming tasks on the premises after the commencement of this section—until 3 months after the start of the employment.
- (3) A person must not employ or allow, or cause another person to employ or allow, a person (the *employee*) to carry out gaming duties or gaming tasks on licensed premises unless the employee holds a current responsible service of gambling course certificate.

Maximum penalty—40 penalty units.

- (4) Subsection (3) does not apply, in relation to a person who starts to be employed to carry out gaming duties or gaming tasks on the premises after the commencement of this section, until 3 months after the start of the employment.
- (5) A licensee—
- (a) must keep a register containing the information prescribed under a regulation about current responsible service of gambling course certificates held by persons carrying out gaming duties or gaming tasks on the licensed premises; and
  - (b) must keep the register available for inspection by an inspector at the premises.

Maximum penalty—40 penalty units.

- (6) In this section—  
*eligible licensee* see section 189(5).

*gaming tasks* means tasks about the conduct of gaming prescribed under a regulation.

**190 Unlicensed persons not to be key monitoring employees**

- (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.

- (2) A licensed monitoring 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.

**191 Certain persons must complete approved responsible service of gambling course**

- (1) This section applies if the commissioner considers a 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) the person's remuneration or policymaking position; or
  - (ii) any other criteria prescribed under a regulation;

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 hold a current responsible service of gambling course certificate.

- (1A) The commissioner must, by written notice, require the person to complete an approved responsible service of gambling course, and obtain a current responsible service of gambling

course certificate, within 3 months after the person receives the notice.

- (2) The commissioner must cause a copy of the notice to be served on the licensee.
- (3) A person who fails within 3 months to comply with a notice under subsection (1A) and continues to be connected or employed as referred to in subsection (1) commits an offence against this Act.

Maximum penalty—200 penalty units.

- (4) Where a person fails within 3 months to comply with a notice under subsection (1A) and continues to be connected or employed as referred to in subsection (1), the commissioner must cause a written notice of the failure to be served on the licensee.
- (5) Despite any other Act or law or any industrial award or agreement, the licensee must, immediately after a notice under subsection (4) is served, ensure that the person does not continue to be connected or employed as referred to in subsection (1).

Maximum penalty—200 penalty units.

- (6) 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).

## **192 Certain persons must apply for key monitoring employee's licence**

- (1) If the commissioner considers a person is a key officer of a licensed monitoring operator, the commissioner 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 commissioner must give a copy of the notice to the licensed monitoring 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.

- (4) If the person fails to comply with the licensing requirement, the commissioner must give written notice of the failure to the licensed monitoring operator.
- (5) The licensed monitoring 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.

- (6) If the person complies with the licensing requirement by applying for a key monitoring employee's licence but the commissioner refuses to grant the application—
- (a) on receipt by the person of notice of the refusal—the person must stop being a key officer of the licensed monitoring 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.

- (7) Subsections (5) and (6)(b) apply to the licensed monitoring operator despite another Act or law or any award or agreement of an industrial nature.
- (8) A licensed monitoring operator does not incur any liability because the operator ends an association with, or the employment of, a person under this section.

### 193 Meaning of *nominee*

- (1) A person is a **nominee** of a licensee for premises if—
- (a) the person is a licensed gaming nominee; and

- (b) the person is designated by the licensee to be the licensee's nominee for the premises; and
  - (c) when the designation takes effect—
    - (i) the person is not the nominee of the licensee or another licensee for other premises; and
    - (ii) another person is not the licensee's nominee for the premises.
- (2) A person is a **nominee** of a licensee for premises if—
  - (a) the person is employed by the licensee and holds a current responsible service of gambling course certificate; and
  - (b) the person is designated by the licensee to be the licensee's nominee for the premises for a period of not more than 1 month; and
  - (c) when the designation takes effect—
    - (i) the person is not the nominee of the licensee or another licensee for other premises; and
    - (ii) another person is not the licensee's nominee for the premises under this subsection or subsection (3), (4) or (5).
- (3) A person is a **nominee** of a licensee for premises if the person—
  - (a) is employed by the licensee and holds a current responsible service of gambling course certificate; and
  - (b) is, with the commissioner's approval, designated by the licensee to be the licensee's nominee for the premises for a period longer than 1 month.
- (4) A person is a **nominee** of a licensee for premises if the person—
  - (a) is an applicant for a gaming nominee's licence; and
  - (b) is, with the commissioner's approval, designated by the licensee to be the licensee's nominee for the premises.

- (5) A person is a *nominee* of a licensee for premises if the person is, with the commissioner's approval, designated by the licensee to be the licensee's nominee for the premises for a period of not more than 7 days.
- (6) However, a person is a licensee's nominee only if—
  - (a) the designation by the licensee of the person as the licensee's nominee is done with the person's agreement; and
  - (b) the designation and agreement are in force; and
  - (c) for a person designated by the licensee to be the licensee's nominee for a stated period—the stated period has not ended.
- (7) A person stops being a nominee of a licensee for premises under subsection (1) during any period for which another person is the licensee's nominee for the premises under subsection (2), (3), (4) or (5).
- (8) The commissioner must refuse to give an approval for subsection (3), (4) or (5) if—
  - (a) the person sought to be designated by the licensee for the premises is the nominee of the licensee or another licensee for other premises; or
  - (b) another person is the licensee's nominee for the premises under a provision of this section other than subsection (1).

#### **194 Identity cards for certain nominees**

- (1) A licensee must give an identity card to a person who is a nominee of the licensee under section 193(3) or (4).
- (2) An identity card must comply with the requirements prescribed under a regulation.
- (3) A person to whom an identity card is given must return the card to the licensee on the day the person ceases to be the licensee's nominee.

Maximum penalty for subsection (3)—20 penalty units.

### **195 Nominees of licensees**

- (1) A licensee that is a body corporate must at all times have a nominee for licensed premises of the licensee.

Maximum penalty—200 penalty units.

- (2) A licensee who is an individual must at all times have a nominee for licensed premises of the licensee.

Maximum penalty—200 penalty units.

- (3) A licensee's nominee must, for the licensed premises for which the nominee is the licensee's nominee, ensure the conduct of gaming is in accordance with the authority conferred by the licensee's gaming machine licence.

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

## **Division 2**

### **Applications for licences, and changes in circumstances of applicants and holders of licences**

#### **198 Applications for licences under this part**

- (1) This section deals with applications for repairers', service contractors', gaming nominees' and key monitoring employees' licences.
- (2) An application for a repairer's, gaming nominee's or key monitoring employee's licence may only be made by an individual.
- (3) An application for a service contractor's licence may be made by an individual or body corporate.
- (4) An application under this part—
  - (a) is to be made in the approved form; and

- (b) in the case of an application by an individual—must be signed by the applicant; and
- (c) in the case of an application by a body corporate—must be signed in the appropriate way; and
- (d) is to state the full name, address and date of birth—
  - (i) in the case of an application by an individual—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, gaming nominee’s or key monitoring employee’s licence—is to be accompanied by photographs of the applicant, of such type and number as are determined by the commissioner 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 to certify by the body corporate; and
  - (iii) unless the body corporate is a company that has only 1 director—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 licence, or an application for a key monitoring employee's licence made by a person who is not a key officer for a licensed monitoring operator—must be accompanied by an employment notice for the application; and
  - (h) in the case of an application for a gaming nominee's licence—must be accompanied by—
    - (i) a notice in the approved form from a licensee nominating the applicant to be the licensee's nominee for licensed premises of the licensee; and
    - (ii) evidence that the commissioner considers on reasonable grounds shows the applicant has successfully completed an approved training course; and
  - (i) in the case of an application for a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 210; and
  - (j) 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 commissioner; and
  - (k) is to be forwarded to or lodged with the commissioner; and
  - (l) is to be accompanied by the fee prescribed.
- (5) Subsection (4)(g) does not apply to an application if the applicant intends, on the issue of a repairer's licence, to carry on the business of a licensed repairer in the applicant's own right.
- (6) For subsection (4)(c), an application for a licence under this part made by a body corporate is signed in the appropriate way—
- (a) if it is signed—

- (i) by at least 2 of its executive officers authorised to sign by the body corporate; or
- (ii) if there is only 1 executive officer of the body corporate—by the officer; or
- (b) if the commissioner considers, for a body corporate having at least 2 executive officers, that paragraph (a) can not reasonably be complied with—if it is signed in the way the commissioner considers appropriate.

(7) In this section—

**employment notice**, for an application for a key monitoring employee’s licence, means a notice that—

- (a) is given by a licensed monitoring operator; and
- (b) states that the operator intends to employ the applicant as a licensed key monitoring employee, subject to the applicant being issued with a key monitoring employee’s licence.

**employment notice**, for an application for a repairer’s licence, means a notice that—

- (a) is given by a licensed monitoring operator, licensed repairer or licensed service contractor; and
- (b) states that the operator, repairer or service contractor intends to employ the applicant as a licensed repairer, subject to the applicant being issued with a repairer’s licence.

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

- (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 commissioner written notice of the change.

Maximum penalty—100 penalty units.

- (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 commissioner written notice of the event.

Maximum penalty—100 penalty units.

- (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 affected by control action under the Corporations Act; or
    - (iv) is convicted of an indictable offence 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).

## **200 Commissioner to consider application**

- (1) The commissioner must consider an application for a licence under this part.
- (2) In considering the application, the commissioner—
- (a) must conduct investigations the commissioner considers are necessary and reasonable to help the commissioner decide the application; and
  - (b) may require the applicant, or an associate of the applicant, to give the commissioner further information or a document for the application.
- (3) A requirement under subsection (2)(b)—

- (a) must be made by written notice given to the applicant or associate; and
  - (b) may only relate to information or a document that is necessary and reasonable to help the commissioner decide the application.
- (4) The notice mentioned in subsection (3)(a) must state the period within which the requirement is to be complied with.
- (5) Also, in considering the application, the commissioner must have regard to each of the following matters—
- (a) if the applicant is an individual—the financial stability, general reputation and character of the applicant;
  - (b) if the applicant is a body corporate—
    - (i) the financial stability and business reputation of the body corporate; and
    - (ii) the financial stability, general reputation and character of the secretary and each executive officer of the body corporate;
  - (c) the suitability of the applicant to be the holder of a licence of the kind to which the application relates;
  - (d) if a person is stated in an affidavit under section 210 as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant;
  - (e) if the commissioner considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant;
  - (f) whether the applicant has, or is able to obtain, the services of persons with appropriate business ability, knowledge or experience to enable the applicant to conduct operations successfully under a licence of the kind to which the application relates.
- (6) If the applicant is an individual, the commissioner may, with the applicant's agreement, cause the applicant's fingerprints to be taken.

- (7) Despite subsection (1), if the applicant is an individual, the commissioner is required to consider the application only if the applicant, if asked, agrees to having the applicant's fingerprints taken.
- (8) In considering an application, the commissioner also must have regard to any supporting material for the application.

## **201 Decision on application**

- (1) The commissioner must, after considering the application, either grant or refuse to grant the application.
- (2) However, the commissioner may grant the application only if—
  - (a) the commissioner is satisfied the applicant is a suitable person to hold the licence having regard to the matters mentioned in section 200(5); and
  - (b) for an application by an individual—the applicant is over 18 years; and
  - (c) for an application by a body corporate—the secretary and each executive officer of the body corporate is over 18 years.
- (3) If the commissioner decides to grant the application, the commissioner must immediately give the applicant—
  - (a) the licence; and
  - (b) if the commissioner decides to impose conditions on the licence—
    - (i) an information notice for the decision; and
    - (ii) for a licence that does not state the conditions—a written notice of the conditions.
- (4) If the commissioner decides to refuse to grant the application, the commissioner must—
  - (a) immediately give the applicant an information notice for the decision; and



- (a) the fee prescribed under a regulation for the issue of the licence has been paid to the commissioner; and
  - (b) the person's affected licence has been returned to the commissioner.
- (4) 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.

#### **204 Term of licences**

- (1) Subject to this Act, a licence under this part remains in force for 5 years from the date of issue of the licence.
- (2) A licence under this part may be renewed.

#### **205 Conditions of licences**

- (1) A licence under this part is subject to such conditions (including any variation of the conditions made under section 206) as the commissioner may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 206.
- (2) A holder of a licence must not contravene a condition of the licence.

Maximum penalty—200 penalty units.

#### **206 Changing conditions of licence**

- (1) The commissioner may decide to change the conditions of a licence under this part if the commissioner considers it is necessary or desirable to make the change in the public interest or for the proper conduct of gaming.
- (2) If the commissioner decides to change the conditions, the commissioner must immediately give the holder of the licence—
  - (a) written notice of the changed conditions; and

- (b) an information notice for the decision.
- (3) A change of the conditions takes effect on—
  - (a) the day the information notice for the decision is given to the holder; or
  - (b) if a later day is stated in the notice—the later day.
- (4) The power of the commissioner to change conditions of a licence includes the power to add conditions to the licence.

### **206A Recording change of conditions**

- (1) The holder of the licence must return the licence, and any written notice of conditions given to the holder under section 201(3)(b), to the commissioner within 14 days after receiving the information notice for the decision to change the conditions of the licence, unless the holder has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) On receiving the licence and, if applicable, a written notice mentioned in subsection (1), the commissioner must—
  - (a) amend the licence or written notice to include the changed conditions and return them to the holder; or
  - (b) if the commissioner does not consider it practicable to amend the licence or written notice—give the holder a replacement licence, or written notice, showing the changed conditions.
- (3) The amendment of a licence does not depend on the licence or written notice being amended or replaced under this section.

### **207 Renewal and continuance of licences**

- (1) A holder of a licence under this part may apply to the commissioner 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, gaming nominee's or key monitoring employee's licence—is to be accompanied by photographs of the 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 commissioner 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 210.
- (3) If the commissioner considers that special circumstances exist, the commissioner 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 commissioner must renew the licence for 5 years starting on—
- (a) if an extension was not given under subsection (3)—the day after its last expiry; or
  - (b) if an extension was given under subsection (3)—the day after the day it would have last expired apart from the extension.

- (6) If an application under subsection (1) is refused, the commissioner must immediately give the applicant an information notice for the decision to refuse to renew the licence.

## **208 Licences not to be transferred**

A licence under this part is not to be transferred.

## **Division 4                    Displaying licences etc., and disclosing information**

### **209 Display of certain licences, identity cards and particulars**

- (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 commissioner.

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 commissioner's possession.

Maximum penalty—40 penalty units.

- (3) If a relevant gaming employee, in carrying out gaming duties for licensed premises, makes a decision affecting a person on the premises, the gaming employee must, if asked by the person affected by the decision, produce for the person's inspection, the gaming employee's formal identification card, unless the gaming employee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (4) If a licensee's nominee for licensed premises of the licensee, while acting in the capacity of the licensee's nominee for the premises, makes a decision affecting a person on the premises, the nominee must, if asked by the person affected by the decision, produce for the person's inspection, the nominee's formal identification card, unless the nominee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) A licensee who has a nominee for licensed premises of the licensee must display in a conspicuous position inside the premises, and in a way that is legible from a reasonable distance—
- (a) the nominee's name; and
  - (b) notice that the nominee is the licensee's nominee for the premises.

Maximum penalty—40 penalty units.

- (6) In this section—

*formal identification card*, for a nominee, means—

- (a) for a nominee mentioned in section 193(1)—the gaming nominee's licence held by the nominee; or
- (b) for a nominee mentioned in section 193(2)—the gaming employee's licence held by the nominee; or
- (c) for another nominee—the identity card given to the nominee under section 194(1).

*formal identification card*, for a relevant gaming employee, means an identity card given to the employee under section 194(1).

*relevant gaming employee* means a gaming employee who is a nominee of a licensee.

## 210 Disclosure of influential or benefiting parties

- (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 commissioner 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 commissioner a fresh affidavit made under this section.

Maximum penalty—100 penalty units.

- (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 an individual—that person; or
  - (b) in the case of any applicant for or holder of the licence being a body corporate—
    - (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 an individual—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 an individual—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 have a substantial holding in the body corporate.
- (5) Despite subsection (4), an affidavit under this section need not disclose anything that is prescribed for the purposes of this subsection.

## **Division 5                      Audit programs and investigations**

### **211      Approving audit programs**

- (1) The Minister may approve—
  - (a) an audit program for investigating licensed gaming nominees, licensed repairers and licensed service contractors; and
  - (b) an audit program for investigating associates of licensed gaming nominees, licensed repairers and licensed service contractors.
- (2) An audit program approved by the Minister may not provide for the investigation of persons under the program at intervals of less than 2 years.

### **212      Conducting investigations of licensed persons and associates**

- (1) The commissioner may investigate a licensed person to help the commissioner decide whether the person is a suitable person to hold a licence of the kind held by the person.
- (2) The commissioner may investigate an associate of a licensed person to help the commissioner decide whether the associate is a suitable person to be an associate of the licensed person.
- (3) However, the commissioner may investigate a licensed person—
  - (a) only if the commissioner reasonably suspects the person is not a suitable person to hold a licence of the kind held by the person; or
  - (b) if the licensed person is a licensed gaming nominee, licensed repairer or licensed service contractor—only if the investigation is conducted under a nominees audit program, repairers audit program or contractors audit program.
- (4) Also, the commissioner may investigate an associate of the licensed person only if—

- (a) the commissioner reasonably suspects the associate is not a suitable person to be an associate of the licensed person; or
  - (b) for an associate who was an associate of the licensed person when the person's licence was issued—the associate has not been investigated under section 200(2); or
  - (c) for an associate who is an associate of a licensed gaming nominee, licensed repairer or licensed service contractor—
    - (i) the investigation is conducted under an associates (nominees) audit program, associates (repairers) audit program or associates (contractors) audit program; or
    - (ii) for an associate who became an associate of the licensed person after the issue of the person's licence—the associate has not been investigated previously under an associates (nominees) audit program, associates (repairers) audit program or associates (contractors) audit program.
- (5) The commissioner must ensure the investigation of a person under an audit program approved by the Minister under section 211(1) is conducted in compliance with the program.

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

- (1) In investigating a person under section 212, the commissioner may, by written notice given to the person, require the person to give the commissioner information or a document the commissioner considers relevant to the investigation.
- (2) When making the requirement, the commissioner must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

**214 Failure to give information or document for investigation**

- (1) A person of whom a requirement is made under section 213 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (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 document sought by the commissioner is not in fact relevant to the investigation.

**Division 6 Suspension and cancellation of licences, and other action by commissioner**

**Subdivision 1 Suspension and cancellation**

**214A Grounds**

- (1) Each of the following is a ground for suspending or cancelling a licence under this part—
- (a) the holder of the licence—
- (i) is not a suitable person to hold the licence; or
  - (ii) acts in a way that is inappropriate for the conduct of gaming; or
  - (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
  - (iv) contravenes a condition of the licence; or
  - (v) contravenes a written direction given to the holder by the commissioner under this Act;

- (b) the holder of the licence or an associate of the holder has a conviction, other than a spent conviction, for—
- (i) an offence against this Act or a gaming Act; or
  - (ii) an indictable offence;
- (c) the licence was issued because of a materially false or misleading representation or document.
- (2) Also, each of the following is a ground for suspending or cancelling a licence under this part that is held by a licensed repairer or a licensed service contractor—
- (a) the holder of the licence contravenes section 210(2);
  - (b) if the holder or an associate of the holder is an individual—the holder or associate is an insolvent under administration within the meaning of the Corporations Act, section 9;
  - (c) if the holder or an associate of the holder is a corporation—the holder or associate is affected by control action under the Corporations Act;
  - (d) an associate of the holder—
    - (i) is not a suitable person to be an associate of the holder; or
    - (ii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
    - (iii) contravenes a written direction given to the associate by the commissioner under this Act; or
    - (iv) has a conviction, other than a spent conviction, for an offence against this Act or a gaming Act, or an indictable offence.
- (3) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the commissioner may have regard to the same matters to which the commissioner may have regard under section 200(5)(a), (b) and (f) in considering an application for a licence under this part.

- (4) For subsection (1)(a)(ii), the holder of a licence acts in a way that is inappropriate for the conduct of gaming if the holder does, or omits to do, an act that results in—
  - (a) if the holder is a key monitoring employee of a licensed monitoring operator—
    - (i) the licensed monitoring operator's supply operations not being conducted under the control system for the operator's supply operations; and
    - (ii) the integrity of gaming and the conduct of gaming being jeopardised; or
  - (b) otherwise—the integrity of gaming and the conduct of gaming being jeopardised.
- (5) For forming a belief that the ground mentioned in subsection (2)(d)(i) exists, the commissioner may have regard to the same matters to which the commissioner may have regard under section 200(5)(a) and (b) in considering an application for a licence under this part.
- (6) In this section—

***spent conviction*** means a conviction—

  - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11 of that Act.

#### **214B Show cause notice**

- (1) If the commissioner believes a ground exists to suspend or cancel a licence under this part, the commissioner must before taking action to suspend or cancel the licence give the holder of the licence a written notice (a ***show cause notice***).
- (2) The show cause notice must state the following—
  - (a) the action the commissioner proposes taking under this subdivision (the ***proposed action***);

- (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action is suspension of the licence—the proposed suspension period;
  - (e) that the holder of the licence may, within a stated period (the *show cause period*), make written representations to the commissioner to show why the proposed action should not be taken.
- (3) The show cause period must end at least 21 days after the holder of the licence is given the show cause notice.
- (4) Subsection (5) applies if the commissioner believes—
- (a) the holder of the licence is employed by an interested person of the holder; and
  - (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of gaming by the interested person.
- (5) The commissioner must immediately give a copy of the show cause notice to the interested person.
- (6) The interested person may make written representations about the show cause notice to the commissioner in the show cause period.

#### **214C Consideration of representations**

The commissioner must consider all written representations (the *accepted representations*) made under section 214B(2)(e) or (6).

#### **214D Immediate suspension**

- (1) The commissioner may suspend a licence under this part immediately if the commissioner believes—
- (a) a ground exists to suspend or cancel the licence; and

- (b) it is necessary to suspend the licence immediately—
  - (i) in the public interest; or
  - (ii) to ensure the integrity of the conduct of gaming is not jeopardised.
- (2) The suspension—
  - (a) can be effected only by the commissioner giving the holder of the licence an information notice for the decision to suspend it, together with a show cause notice; and
  - (b) operates immediately the information notice is given to the holder; and
  - (c) continues to operate until the show cause notice is finally dealt with.
- (3) If the commissioner believes the holder of the licence is employed by an interested person of the holder, the commissioner must immediately give written notice of the suspension to the interested person.

#### **214E Suspension and cancellation of licence after show cause process**

- (1) This section applies if—
  - (a) there are no accepted representations for a show cause notice; or
  - (b) after considering the accepted representations for a show cause notice, the commissioner—
    - (i) still believes a ground exists to suspend or cancel a licence under this part; and
    - (ii) believes suspension or cancellation of the licence is warranted.
- (2) This section also applies if the holder of a licence contravenes a direction given to the holder under section 214H.
- (3) The commissioner may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
  - (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.
- (4) If the commissioner decides to take action under subsection (3), the commissioner must immediately—
- (a) give an information notice for the decision to the holder of the licence; and
  - (b) if the commissioner believes the holder is employed by an interested person of the holder—give written notice of the suspension or cancellation to the interested person.
- (5) The decision takes effect on the later of the following—
- (a) the day the information notice is given to the holder of the licence;
  - (b) the day of effect stated in the information notice.
- (6) If the commissioner cancels the licence, the holder must give the licence to the commissioner within 14 days after the cancellation takes effect.

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

## **Subdivision 2 Other action by commissioner**

### **214F Ending show cause process without further action**

- (1) This section applies if, after considering the accepted representations for a show cause notice, the commissioner no longer believes a ground exists to suspend or cancel a licence under this part.
- (2) The commissioner—
  - (a) must not take any further action about the show cause notice; and

- (b) must give each of the following a written notice stating that no further action is to be taken—
  - (i) the holder of the licence;
  - (ii) an interested person to whom a copy of the show cause notice was given under section 214B(5).

### **214G Censuring licensed person**

- (1) The commissioner may censure the holder of a licence under this part for a matter relating to a ground for suspension or cancellation if the commissioner—
  - (a) believes a ground exists to suspend or cancel the licence but does not believe that giving a show cause notice to the holder is warranted; or
  - (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licence but does not believe suspension or cancellation of the licence is warranted.
- (2) The censure can be effected only by the commissioner giving the holder of the licence an information notice for the decision to censure the holder.
- (3) If the commissioner believes the holder of the licence is employed by an interested person of the holder, the commissioner must immediately give written notice of the censure to the interested person.

### **214H Direction to rectify matter after show cause process**

- (1) This section applies if, after considering the accepted representations for a show cause notice, the commissioner—
  - (a) still believes a ground exists to suspend or cancel a licence under this part; and
  - (b) believes a matter relating to the ground for suspension or cancellation is capable of being rectified and it is appropriate to give the holder of the licence an opportunity to rectify the matter.

- (2) The commissioner may direct the holder of the licence to rectify the matter.
- (3) If the commissioner decides to give the holder of a licence a direction under this section, the direction can be effected only by the commissioner giving the holder an information notice for the decision.
- (4) The information notice must state the period for rectifying the matter.
- (5) The period must be reasonable, having regard to the nature of the matter to be rectified.
- (6) If the commissioner gave a copy of the show cause notice to an interested person under section 214B(5), the commissioner must give written notice of the direction to the interested person immediately after giving the information notice to the holder of the licence.

#### **214I Cancellation or reduction of period of suspension**

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

## Division 7                      Miscellaneous

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

A licensed service contractor that is a body corporate must notify the commissioner 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—40 penalty units.

### 216      **Employment of licensed repairers**

A person (an *employer*) must not employ a licensed repairer to carry out functions as a licensed repairer, unless the employer is a licensed monitoring operator, a licensed service contractor or another licensed repairer.

Maximum penalty—100 penalty units.

### 217      **Returns about employees and agreements**

- (1) In this section—

*employer* means a licensed monitoring operator, licensed repairer or licensed service contractor.

- (2) An employer must give the commissioner a return as required by this section stating the name and licence number of each person employed by the employer as a licensed repairer when the return is given.

Maximum penalty—40 penalty units.

- (3) An employer must give the commissioner a return as required by this section stating the name and licence number of each person with whom the employer has a service contract when the return is given.

Maximum penalty—40 penalty units.

- (4) A licensee must give the commissioner a return as required by this section stating—
- (a) the name of each person employed by a licensee to carry out gaming duties for licensed premises of the licensee when the return is given; and
  - (b) the name and licence number of each licensed gaming nominee who is a nominee of the licensee under section 193(1) for licensed premises of the licensee when the return is given; and
  - (c) the name and licence number of each licensed gaming employee who is a nominee of the licensee under section 193(2) for licensed premises of the licensee when the return is given; and
  - (d) the name of each applicant for a gaming nominee's licence who is a nominee of the licensee under section 193(3) for licensed premises of the licensee when the return is given.

Maximum penalty—40 penalty units.

- (5) A return for subsection (2), (3) or (4) must—
- (a) be in the approved form; and
  - (b) be given within 14 days after being requested by the commissioner to give the return.
- (6) A request made by the commissioner to an employer or licensee for subsection (5)(b)—
- (a) must be in writing; and
  - (b) must not be made within 1 month of a previous request made to the employer or licensee for subsection (5)(b).

- (7) 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.

- (8) If it becomes known to the commissioner or a licensed monitoring operator that a person with whom the commissioner or licensed monitoring operator has made a service contract is not a licensed repairer or licensed service contractor the commissioner or licensed monitoring operator must immediately terminate the service contract.

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

- (9) If it becomes known to a licensed repairer or licensed service contractor that a person (other than the commissioner or a licensed monitoring operator) 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.

- (10) A licensee must immediately end the employment of a person employed by the licensee if the person is employed on the basis the person is a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee.

Maximum penalty—200 penalty units.

- (11) A licensee must immediately take action to stop a person being the licensee's nominee for licensed premises of the licensee if—

- (a) the licensee designated the person as the licensee's nominee for the premises on the basis the person was a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or

- (b) the licensee designated the person as the licensee's nominee for the premises on the basis the person holds a current responsible service of gambling course certificate and the licensee becomes aware the person does not hold a current responsible service of gambling course certificate.

Maximum penalty—200 penalty units.

- (12) The provisions of subsection (7), (8), (9), (10) or (11) are sufficient authority to take the action mentioned 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.

## **218 Surrender of licences**

- (1) The holder of a licence under this part, at any time, by forwarding to or lodging with the commissioner notification in the approved form, and the licence under this part, may surrender the licence.
- (2) The notification must be signed in the same way an application for a licence under this part is required to be signed.
- (3) The surrender of the licence takes effect—
  - (a) if paragraph (b) or (c) does not apply—on the day (the *set day*) that is 14 days after the notification of surrender is given; or
  - (b) if a day of effect that is later than the set day is stated in the notification of surrender—on the day stated in the notification; or
  - (c) if, at the request of the holder of the licence, the commissioner, by written notice, approves a day of effect that is earlier than the set day—on the day approved by the commissioner.

## **223 Destruction of fingerprints**

- (1) This section applies if—
  - (a) a person ceases to be a licensed repairer, licensed gaming nominee or licensed key monitoring employee; or
  - (b) a person who is an individual ceases to be a licensed service contractor.
- (2) The commissioner must have any fingerprints of the person taken for the application for the licence held by the person destroyed as soon as practicable.

## **224 Provisional licences**

- (1) The commissioner may grant to an applicant for a licence under this part a provisional licence if the commissioner 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 commissioner may impose on a provisional licence such conditions as the commissioner considers are necessary in the public interest.
- (3) If the commissioner grants a provisional licence, the commissioner 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, gaming nominee's licence or key monitoring employee's licence is granted and issued or the commissioner refuses to grant the licence; or

- (b) it is surrendered by its holder; or
  - (c) it is cancelled by the commissioner.
- (5) The commissioner, at any time, may cancel a provisional licence granted under subsection (1).
- (6) No right of action arises against the commissioner 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, gaming nominee's licence or key monitoring employee's licence.

## **Part 6                      Supervision and management    of gaming**

### **Division 1                      Installation and storage, and    register, of gaming machines**

#### **225      Installation and storage of gaming machines by licensees**

- (1) Subject to subsection (2), a licensee must install each authorised gaming machine of the licensee in a gaming machine area on the licensee's licensed premises.
- (2) A licensee must cause an authorised gaming machine of the licensee that is not installed in a gaming machine area on the licensee's licensed premises—
- (a) to be stored on premises approved by the commissioner; and
  - (b) to be secured in the way approved by the commissioner.
- Maximum penalty—200 penalty units.
- (3) A licensee must not store a gaming machine for more than 2 months without the commissioner's written approval.

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

**226 Licensee's register of gaming machines**

- (1) Each licensee must, at each of the licensee's licensed premises, keep a register listing all gaming machines on the premises.

Maximum penalty—100 penalty units.

- (2) The register must be in the approved form and must show if each gaming machine—
- (a) is owned or leased by the licensee, or otherwise in the licensee's possession under an arrangement; and
  - (b) is, or is not, connected to an electronic monitoring system.
- (3) In this section—

*leased* includes supplied under a hire-purchase agreement under the *Hire-purchase Act 1959* and subleased.

**227 Gaming machines not to be played if not installed in gaming machine area**

- (1) Subject to subsection (2), a person who plays or allows another person to play a gaming machine—
- (a) that is an authorised gaming machine of 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 an authorised gaming machine of 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—
  - (a) if the gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval; or
  - (b) otherwise—the licensee for the gaming machine.
- (4) Subsection (3) applies to winnings whether the winnings are attributable to obtaining a winning result or promotions.

## **228 Gaming equipment not to be an annoyance etc.**

- (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 licensed dealer or licensee must not allow any gaming equipment to 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) Where, in the opinion of an inspector, a contravention of this section is being or has been committed, the commissioner may, instead of instituting or authorising the institution of

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proceedings for an offence against subsection (1) or (2), by written notice, direct the licensed dealer, 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.
- (4) A licensed dealer, licensee or person who fails to comply with a direction given under subsection (3) commits an offence against this Act.

Maximum penalty for subsection (4)—200 penalty units.

## **Division 2                      Advertising**

### **229      Advertisements related to gaming**

- (1) This section applies to an advertisement about—
- (a) gaming; or
  - (b) the conduct of gaming; or
  - (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance, repair or testing of gaming equipment.
- (2) A person who publishes, or authorises the publication of, an advertisement to which this section applies must take reasonable steps to ensure the advertisement—
- (a) is not indecent or offensive; and
  - (b) is based on fact; and
  - (c) is not false, deceptive or misleading in a material particular.

### **230 Directions about advertising**

- (1) If the commissioner reasonably believes an advertisement to which section 229 applies does not comply with that section, the commissioner may direct the person appearing to be responsible for authorising the advertisement to take appropriate steps—
  - (a) to stop publication of the advertisement; or
  - (b) to change the advertisement.
- (2) The direction must—
  - (a) be in writing; and
  - (b) state the grounds for the direction; and
  - (c) for a direction to change the advertisement—state how the advertisement is to be changed.
- (3) A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

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

## **Division 3 Gaming related systems**

### **231 Installation, operation and modification of gaming related systems**

- (1) A person (other than the commissioner) who is not a licensed monitoring operator must not—
  - (a) install a gaming related system on licensed premises; or
  - (b) modify an electronic monitoring system operating on licensed premises.

Maximum penalty—200 penalty units.

- (2) A person who is not a licensee or licensed monitoring operator must not operate a gaming related system on licensed premises.

Maximum penalty—200 penalty units.

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- (3) A licensed monitoring operator must not, without the commissioner's written approval—
- (a) install a gaming related system on licensed premises; or
  - (b) modify an electronic monitoring system operating on licensed premises.

Maximum penalty—200 penalty units.

- (4) A licensee or licensed monitoring operator must not operate a gaming related system on licensed premises—
- (a) without the commissioner's written approval; and
  - (b) unless the system was installed on the premises by the commissioner or a licensed monitoring operator.

Maximum penalty—200 penalty units.

- (5) A person must not cause a gaming related system to be installed on licensed premises, or cause an electronic monitoring system on licensed premises to be modified—
- (a) without the commissioner's written approval; and
  - (b) unless the installation or modification is carried out by the commissioner or a licensed monitoring operator.

Maximum penalty—200 penalty units.

- (6) A person must not cause a gaming related system on licensed premises to be operated—
- (a) without the commissioner's written approval; and
  - (b) unless the operation is carried out by a licensee or licensed monitoring operator; and
  - (c) unless the system was installed on the premises by the commissioner or a licensed monitoring operator.

Maximum penalty—200 penalty units.

- (7) A licensee must permit such works and actions, by the commissioner or a licensed monitoring operator or any person acting on behalf of the commissioner or a licensed monitoring 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 this section.

Maximum penalty—200 penalty units.

- (8) A licensee must, at the licensee's expense, provide—
- (a) locations, to the satisfaction of the commissioner or a licensed monitoring 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 this section.

Maximum penalty—200 penalty units.

- (9) A licensee must, at the licensee's expense, provide the commissioner or a licensed monitoring operator, continuous, free and unfettered access to—
- (a) any data held in or available from; and
  - (b) the operation of;
- an electronic monitoring system installed, or proposed to be installed, under this section.

Maximum penalty for subsection (9)—200 penalty units.

## **232 Approvals for gaming related systems**

- (1) This section applies to the commissioner for giving, or refusing to give, an approval for section 231 for a gaming related system.
- (2) If, for deciding whether or not to give the approval, the commissioner considers it is necessary for the gaming related system to be tested, the commissioner may—
- (a) carry out the test; or
  - (b) direct the applicant—
    - (i) to arrange to have the system tested by a licensed testing facility operator; and

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- (ii) to give the commissioner a written report of the test in the approved form.
  - (3) If the commissioner carries out a test of the gaming related system—
    - (a) the applicant must pay the fee prescribed under a regulation for the test to the commissioner; and
    - (b) if an amount of the fee is not paid by the applicant, the State may recover the amount from the applicant as a debt.
  - (4) The commissioner may refuse to give an approval if—
    - (a) the fee payable for a test carried out by the commissioner is not paid; or
    - (b) the applicant fails to comply with a direction of the commissioner under subsection (2)(b).
  - (5) If the commissioner gives the approval, the commissioner must immediately give the applicant written notice of the decision.
  - (6) If the commissioner refuses to give the approval, the commissioner must immediately give the applicant an information notice for the decision.
  - (7) In this section—

*applicant* means the person by whom an approval of the commissioner for section 231 is sought.

## **Division 4                      Fees for basic monitoring services, and maintaining facilities**

### **233      Basic monitoring fees**

If a licensed monitoring operator supplies basic monitoring services to a licensee, the licensed monitoring operator must not charge the licensee more than the basic monitoring fee prescribed under a regulation for supplying basic monitoring services.

Maximum penalty—200 penalty units.

**234 Maintenance of facilities etc.**

- (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 commissioner, 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.

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

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**Division 5**                      **Hours of gaming and rules ancillary to gaming**

**235**      **Hours of gaming**

- (1) A licensee must not conduct gaming, or allow gaming to be conducted, in any part of the licensee's licensed premises—
  - (a) outside the hours of gaming fixed for the licensed premises by the commissioner; 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.

- (2) The hours of gaming fixed for licensed premises can not extend beyond a period of 2 hours after the time when, under the liquor licence relating to the premises, liquor is not permitted to be sold on the licensed premises.

**236**      **Rules ancillary to gaming**

- (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 commissioner may and a licensee, with the approval of the commissioner, in respect of the licensee's licensed premises, may—
  - (a) amend, add to or repeal; or
  - (b) substitute a rule or other rules for;

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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 commissioner takes action under subsection (3) (other than by way of approval), the commissioner 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 commissioner'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.

### **237 Rules ancillary to gaming to be displayed and enforced**

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 displayed in a conspicuous position, and in a way that ensures the rules are clearly legible from a reasonable distance, in each gaming machine area on the licensed premises; and
- (b) to be enforced.

Maximum penalty—40 penalty units.

## **Division 6 Extending credit, and gaming tokens**

### **238 Licensees or employees not to extend credit**

- (1) 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.

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- (2) An employee of a licensee must not, in the course of the employee's employment, make a loan or extend credit in any form to any person, including the employee, to enable the person or another person to play a gaming machine on the licensee's licensed premises.

Maximum penalty—200 penalty units.

- (3) If a cash advance is made to a person in circumstances where a licensee or an employee of a licensee knows, or ought reasonably to know, that the person intends to use the cash advance for gaming, the licensee or employee must not represent that the cash advance was made for some other purpose.

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

### **239 Gaming tokens**

- (1) A licensee in conducting gaming on the licensee's licensed premises must only use gaming tokens.

Maximum penalty—200 penalty units.

- (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 for subsection (2)—200 penalty units.

### **240 Gaming tokens that are not Australian currency**

- (1) This section does not apply to either of the following gaming tokens—
- (a) a gaming token that has no value marked on it, and forms part of a centralised credit system approved under section 231(4);
  - (b) a gaming token that is a ticket, and is used as part of a TITO system approved under section 231(4).

(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.

Maximum penalty—200 penalty units.

(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 commissioner 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 commissioner; and
- (c) the gaming token is of the physical characteristics approved by the commissioner; and
- (d) there is marked on the gaming token, in such a way as is approved by the commissioner—
  - (i) the value approved under paragraph (b); and
  - (ii) the name of the licensee or a symbol, approved by the commissioner, that clearly identifies the licensee from all other licensees; and
  - (iii) the name of the licensed premises or a symbol, approved by the commissioner, that clearly identifies the licensed premises from all other licensed premises; and

(e) the gaming token is in good condition.

Maximum penalty—200 penalty units.

(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 commissioner approval for the purchase of the gaming tokens.

Maximum penalty—200 penalty units.

- (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.

Maximum penalty—200 penalty units.

- (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 commissioner.

Maximum penalty—200 penalty units.

- (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 for subsection (7)—200 penalty units.

## **Division 7                      Provisions about winnings and other payments**

### **241      Entitlement of players to winnings**

- (1) This section applies if a person (the *player*) playing a gaming machine installed on licensed premises becomes entitled to receive an amount or a non-monetary prize because of the playing of the gaming machine.
- (2) The responsible licensed person must ensure the player—
- (a) is paid the amount the player is entitled to receive, calculated in the way prescribed under a regulation; or
  - (b) receives the non-monetary prize the player is entitled to receive.

Maximum penalty—200 penalty units.

(3) In this section—

*responsible licensed person*, for an amount or non-monetary prize mentioned in subsection (1), means—

- (a) if the gaming machine under which the entitlement to the amount or prize arises is not part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensee of the licensed premises on which the gaming machine is installed; or
- (b) if the gaming machine under which the entitlement to the amount or prize arises is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval for the operation of the arrangement.

## 242 Payments for gaming

- (1) This section applies to a licensee or licensed monitoring operator who is required to make a payment for—
  - (a) an amount for winnings, or gaming machine credits, that is not made by a gaming machine; or
  - (b) the redemption of gaming tokens.
- (2) The licensee or licensed monitoring operator must make the payment—
  - (a) if paragraph (b) does not apply—with Australian currency; or
  - (b) if, under a regulation or the ancillary rules, the payment is required to be made in a way prescribed under the regulation or stated in the rules—in the way prescribed or stated.

Maximum penalty—200 penalty units.

- (3) Subsection (2) does not apply to a licensee or licensed monitoring operator for a payment that, apart from this

subsection, would be required to be made with Australian currency if, at the request of the person entitled to receive the payment, the licensee or operator makes 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.
- (4) Nothing in subsection (3) requires a licensee or licensed monitoring operator to make a payment in the way requested by a person.
- (5) In this section—

*ancillary rules*, for a payment under this section, means the rules that, under section 237, are required to be displayed on the licensed premises on which the gaming machine to which the payment relates is installed.

## 242A Unclaimed payments

- (1) If a person entitled to a non-monetary payment in relation to playing a gaming machine does not collect the payment within 12 months after the person becomes entitled to the payment, the relevant person may—
- (a) dispose of the payment by public auction or tender or in some other way approved by the commissioner; and
  - (b) pay for the disposal from the proceeds of sale.
- (2) Also, the relevant person must deal with any amount remaining from the proceeds of sale as required under subsection (4).

Maximum penalty—100 penalty units.

- (3) If a person is entitled to a monetary payment in relation to playing a gaming machine and the amount is not paid within 12 months after the person becomes entitled to the payment, the relevant person must, within 14 days after the end of the

12 months, deal with the amount as required under subsection (4).

Maximum penalty—100 penalty units.

- (4) The relevant person must, for an amount mentioned in subsection (2) or (3)—
- (a) if the relevant person knows who is entitled to receive the amount and the person's whereabouts—pay the amount to the person; or
  - (b) if the relevant person knows who is entitled to receive the amount, but the relevant person does not know the person's whereabouts—pay the amount into the designated departmental account; or
  - (c) if the relevant person does not know who is entitled to receive the amount—pay the amount into the designated departmental account.
- (5) In this section—

*designated departmental account* means a departmental financial institution account of the department designated under a regulation as the account to which payments are to be made under subsection (4)(b) or (c).

*payment* does not include promotions.

*relevant person* means—

- (a) for a multiple site linked jackpot arrangement—the licensed operator; or
- (b) otherwise—the licensee.

## **243 Gaming by employees of licensees**

- (1) This section applies if—
- (a) an employee of a licensee who is not a gaming employee plays a gaming machine on the licensee's licensed premises for carrying out the employee's duties; and

- (b) a winning result is, or promotions are, obtained by the playing of the gaming machine.

*Note—*

The issue of the playing of gaming machines by gaming employees is dealt with in section 338.

- (2) No amount is payable to the employee for the winning result or promotions, and any winnings produced by obtaining the winning result or because of the promotions remain the property of—
  - (a) if the gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval; or
  - (b) otherwise—the licensee.

## 244 Gaming system malfunctions

- (1) This section applies if—
  - (a) a credit of gaming tokens (a *displayed win*) is registered by a gaming machine by the playing of the gaming machine; or
  - (b) a gaming system component produces a display (also a *displayed win*) to indicate, for a gaming machine—
    - (i) an amount (a *prize amount*) has been won by the playing of the gaming machine; or
    - (ii) a non-monetary prize (a *prize item*) has been won by the playing of the gaming machine.
- (2) A gaming employee for the licensed premises on which the gaming machine is installed may—
  - (a) refuse to make a payment, or to allow a payment to be made, to a person for the registered credit; or
  - (b) refuse to pay the prize amount, or to allow the prize amount to be paid, to a person; or

- (c) refuse to award the prize item, or to allow the prize item to be awarded, to a person.
- (3) However, the gaming employee may make a payout refusal decision about a displayed win only if the gaming employee is satisfied the registering or production of the displayed win is caused by a gaming system malfunction.
- (4) If a gaming employee makes a payout refusal decision about a displayed win, the gaming employee must ensure the gaming machine to which the displayed win relates is not played, except for testing purposes, until the gaming system malfunction is rectified.

Maximum penalty—200 penalty units.

- (5) A gaming employee may make a payout refusal decision regardless of the reason for the gaming system malfunction.
- (6) Subsection (1) applies to a displayed win whether the displayed win is attributable to the obtaining of a winning result, promotions or something else.

#### **245 Notices and reports about payout refusal decisions**

- (1) This section applies if a gaming employee makes a payout refusal decision about a displayed win.
- (2) As soon as practicable after making the decision, the gaming employee must—
  - (a) give the person affected by the decision (the *affected person*) a written notice stating—
    - (i) that the person may ask for a review of the decision; and
    - (ii) how the request for the review may be made; and
  - (b) give a report of the decision, in the approved form, to the licensee (the *involved licensee*) of the licensed premises at which the gaming employee is carrying out gaming duties.

Maximum penalty—40 penalty units.

- (3) As soon as practicable after receiving a report under subsection (2), the involved licensee must give a copy of the report to the involved licensed monitoring operator.

Maximum penalty—40 penalty units.

- (4) However, the involved licensee is not required to give a copy of the report to the involved licensed monitoring operator if the involved licensee overrules the decision of the gaming employee.

#### **246 Requests for review of payout refusal decisions**

- (1) An affected person who is dissatisfied with a payout refusal decision may ask for a review of the decision.
- (2) A request under subsection (1) must—
  - (a) be in writing; and
  - (b) be given to the involved licensee; and
  - (c) be made within 10 days after the payout refusal decision is made; and
  - (d) state the grounds for seeking a review of the decision.
- (3) As soon as practicable after receiving a request for a review of a payout refusal decision, the involved licensee must give a copy of the request to the involved licensed monitoring operator.

#### **247 Review of payout refusal decisions**

- (1) This section applies to an involved licensed monitoring operator on receiving a copy of a request about a payout refusal decision under section 246.
- (2) The involved licensed monitoring operator must—
  - (a) review the payout refusal decision as soon as practicable after receiving the copy of the request; and
  - (b) decide the review by either confirming or overruling the payout refusal decision; and

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- (c) immediately after making a decision for the review, give written notice of the decision, as required under this section, to—
  - (i) the person by whom the request for the review was made (the *claimant*); and
  - (ii) the involved licensee.
- (3) However, the involved licensed monitoring operator may confirm the payout refusal decision only if the operator is satisfied the registering or production of the displayed win to which the decision relates was caused by a gaming system malfunction.
- (4) The notice mentioned in subsection (2)(c) must state—
  - (a) the outcome of the review (the *review decision*); and
  - (b) the reasons for the review decision; and
  - (c) if the review decision is a decision confirming the payout refusal decision—
    - (i) that the claimant may ask the commissioner to review the review decision; and
    - (ii) how the request for the further review may be made.

#### **248 Review of initial review decisions**

- (1) This section applies if a claimant for a review of a payout refusal decision—
  - (a) receives a notice under section 247(2) confirming the decision; or
  - (b) does not receive a notice under section 247(2) within 1 month after asking for the review.
- (2) If this section applies because of subsection (1)(a), the claimant may ask the commissioner to review the review decision.

- (3) If this section applies because of subsection (1)(b), the claimant may ask the commissioner to review the payout refusal decision.
- (4) A request to the commissioner under this section must—
  - (a) be made in the way, and within the time, prescribed under a regulation; and
  - (b) be dealt with by the commissioner in the way prescribed under a regulation.

#### **249 Effect of reviews on payout refusal decisions**

- (1) If, following the review of a review decision by the commissioner, the commissioner sets aside the review decision—
  - (a) the payout refusal decision to which the review decision relates ceases to have effect; and
  - (b) this Act applies to the responsible licensed person in relation to the displayed win to which the payout refusal decision related as if the decision had not been made.
- (2) If an involved licensed monitoring operator overrules a payout refusal decision—
  - (a) the decision ceases to have effect; and
  - (b) this Act applies to the responsible licensed person in relation to the displayed win to which the payout refusal decision related as if the decision had not been made.
- (3) Nothing in sections 246 to 248 affects or prejudices any other right or remedy of an affected person in relation to a displayed win to which a payout refusal decision relates.
- (4) In this section—

*responsible licensed person* means—

  - (a) if the relevant gaming machine is not part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation

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under section 287—the licensee of the licensed premises on which the gaming machine is installed; or

- (b) if the relevant gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval for the operation of the arrangement.

## **Division 8                      Defective gaming system components, and security of gaming machines**

### **250      Defective gaming system components not allowed**

- (1) In this section—

*licensee* includes—

- (a) a gaming employee 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 system transactions; or
  - (v) carry out TITO system transactions;
- on the licensee’s licensed premises in question.

- (2) A licensee must not allow a gaming system component installed, or available for use, on the licensee’s licensed premises to be played or used, except for testing purposes, if the component malfunctions when it is played or used.

Maximum penalty—200 penalty units.

- (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 system component did not malfunction when it was played or used; and
  - (b) at the time of the alleged offence did not know, and ought not to have known, that the gaming system component was malfunctioning.

**251 Security of keys etc.**

- (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.

Maximum penalty—200 penalty units.

- (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 for subsection (2)—200 penalty units.

**252 Certain persons only to have access etc. to gaming machines**

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 cash 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—

- (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 gaming employee 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) an inspector in the performance of functions under this Act.

Maximum penalty—200 penalty units.

## **Division 9                      Provisions about minors**

### **253      Minors can not play gaming machines**

- (1) A minor must not play a gaming machine on licensed premises.

Maximum penalty—25 penalty units.

- (2) Subsection (1) does not apply to a minor if the minor—

- (a) is an employee of the licensee of the licensed premises; and

- (b) plays the gaming machine only to the extent that is necessary for carrying out the minor's duties as the licensee's employee.

*Example of circumstances in which minor may play gaming machine for subsection (2)(b)—*

If a gaming machine has malfunctioned and has been adjusted to correct the malfunction, a minor may play the gaming machine to test that it is operating properly.

## **254 Minors can not be allowed to game**

- (1) A person must not allow a minor to play a gaming machine on licensed premises.

Maximum penalty—

- (a) for a person who is the licensee of, or the licensee's nominee for, the licensed premises—250 penalty units;  
or
  - (b) for another person—40 penalty units.
- (2) A person does not commit an offence against subsection (1) if the minor—
    - (a) is an employee of the licensee of the licensed premises;  
and
    - (b) plays the gaming machine only to the extent that is necessary for carrying out the minor's duties as the licensee's employee.

*Example of circumstances in which minor may play gaming machine for subsection (2)(b)—*

If a gaming machine has malfunctioned and has been adjusted to correct the malfunction, a minor may play the gaming machine to test it is operating properly.

## **255 False representation of age**

- (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—
- (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.

**256 Wrongful dealing with genuine evidence of age**

- (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.

**257 Seizure of document wrongly used as evidence of age**

- (1) If a contravention of section 255 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.
- (3) Subsection (1) does not require a person to seize or confiscate a document stored or displayed on a digital device if—
  - (a) the device is used in the contravention of section 255; and
  - (b) in contravening the section a person produced the device to display the following things, or an image or other design purporting to be the thing—
    - (i) a digital authority;
    - (ii) a digital evidence of age;
    - (iii) a digital evidence of identity.

## 258 Ascertainment of age

- (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.

*Note—*

See the *Transport Planning and Coordination Act 1994*, sections 29AH and 29AI for the use of a digital authority, a digital evidence of age or a digital evidence of identity.

- (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***, for licensed premises means—
  - (a) the licensee of the premises; or
  - (b) a gaming employee for the premises; or
  - (c) another employee of the licensee of the premises; or
  - (d) an inspector.

## **259 Seizure of material associated with representation of age**

- (1) If an inspector reasonably believes or suspects that a person—
  - (a) has made, or caused to be made, a false document in contravention of section 255(2)(a); or
  - (b) is in possession of a document given to the person in contravention of section 255(2)(b) or 256(1); or
  - (c) is in possession of a document defaced or interfered with in contravention of section 256(2);the inspector may seize and confiscate—
  - (d) in the case specified in paragraph (a)—
    - (i) all documents made in contravention of section 255(2)(a) in the person's possession; and
    - (ii) all equipment and materials in the person's possession reasonably suspected by the inspector to have been used, or to be intended for use, in contravening section 255(2)(a); or

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- (e) in the case specified in paragraph (b) or (c)—the document in respect of which section 255(2)(b) or 256(1) or (2) appears to have been contravened.
- (2) Nothing in this section authorises an inspector to seize and confiscate a digital device if—
- (a) the inspector reasonably believes or suspects the device was used in the commission of the offence mentioned in section 255(2)(a) or (b) or 256(1) or (2); and
  - (b) in committing the offence the person used the device to display the following things, or an image or other design purporting to be the thing—
    - (i) a digital authority;
    - (ii) a digital evidence of age;
    - (iii) a digital evidence of identity.

## **260 Defence to charge if age material**

- (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.

## **Division 10            Excluding or removing persons from licensed premises or gaming machine areas**

### **Subdivision 1        Provisions about self-exclusion**

#### **261    Self-exclusion notice**

- (1) A person may give to a licensee a notice in the approved form (a *self-exclusion notice*) asking the licensee to prohibit the person from entering or remaining in—
  - (a) the licensee's licensed premises; or
  - (b) a gaming machine area on the licensed premises.
- (2) The person must, if asked by the licensee, give the licensee a recent photo of the person together with the notice.
- (3) If a licensee's gaming machine licence relates to more than 1 licensed premises, a self-exclusion notice may relate to a stated premises or all premises to which the gaming machine licence relates.

#### **261A   Self-exclusion order**

- (1) If a person gives a licensee a self-exclusion notice under section 261, the licensee must as soon as practicable give to the person—
  - (a) a notice in the approved form (a *self-exclusion order*) prohibiting the person from entering or remaining in the licensed premises or gaming machine area; and
  - (b) details, including the name and address, of at least 1 entity that provides counselling services for problem gamblers.

Maximum penalty—50 penalty units.

- (2) A self-exclusion order has effect for the period—
  - (a) starting when it is given to the person; and
  - (b) ending on the earlier of the following—
    - (i) when a revocation notice for the order takes effect under section 261B(3);
    - (ii) the day that is 5 years after the day the order is given to the person.

### **261B Revoking self-exclusion order**

- (1) A person who is given a self-exclusion order may, by notice in the approved form (a *revocation notice*) given to the licensee of the licensed premises to which the order relates, revoke the order.
- (2) However, the person may revoke the order only—
  - (a) within 24 hours after the person receives it; or
  - (b) after 1 year after the person receives it.
- (3) A revocation notice takes effect—
  - (a) if the notice is given to the licensee under subsection (2)(a)—when it is given to the licensee; or
  - (b) otherwise—28 days after the day it is given to the licensee.

## **Subdivision 2 Exclusion instigated by licensee**

### **261C Exclusion direction**

- (1) If a licensee believes on reasonable grounds a person is a problem gambler, the licensee may give the person a notice in the approved form (an *exclusion direction*) prohibiting the person from entering or remaining in—
  - (a) the licensee's licensed premises; or

- (b) a gaming machine area on the licensed premises.
- (2) If a licensee's gaming machine licence relates to more than 1 licensed premises, an exclusion direction may relate to a stated premises or all premises to which the gaming machine licence relates.
- (3) If a licensee decides to give a person an exclusion direction, the direction must be accompanied by an information notice for the decision.

### **261D Duration of exclusion direction**

An exclusion direction has effect for the period—

- (a) starting when it is given to the person concerned; and
- (b) ending on the earlier of the following—
  - (i) if the decision to give the direction is set aside on a review of the decision by the tribunal—when the decision is set aside;
  - (ii) if a revocation notice for the direction takes effect under section 261F(6)—when the notice takes effect;
  - (iii) if a decision, under section 261F, refusing to revoke the direction is set aside on a review of the decision by the tribunal—when the decision is set aside;
  - (iv) the day that is 5 years after the day the direction is given to the person.

### **261E Application to revoke exclusion direction**

- (1) This section applies if a person is prohibited from entering or remaining in a licensee's licensed premises, or a gaming machine area on the licensed premises, under an exclusion direction.

- (2) The person may apply to the licensee for the licensed premises to which the direction relates for revocation of the direction.
- (3) The application may only be made at least 1 year after the day the person is given the direction.
- (4) The application must be—
  - (a) in the approved form; and
  - (b) supported by enough information to enable the licensee to decide the application.
- (5) A person may apply under this section only once each year commencing on the anniversary of the day the person was given the direction.

#### **261F Deciding application to revoke exclusion direction**

- (1) This section applies to an application under section 261E for revocation of an exclusion direction.
- (2) The licensee must consider the application and, within 28 days after receiving it, decide to revoke or refuse to revoke the direction.
- (3) If the licensee fails to decide the application within 28 days after its receipt, the failure is taken to be a decision by the licensee to refuse to revoke the direction.
- (4) In considering the application, the licensee may have regard to the information supporting the application and any other information the licensee considers relevant, including, for example, a report of a psychologist.
- (5) If the licensee decides to revoke the direction, the licensee must as soon as practicable give the applicant notice of the revocation in the approved form (a *revocation notice*).
- (6) A revocation notice takes effect when it is given to the applicant.

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- (7) If the licensee decides to refuse to revoke the direction, the licensee must as soon as practicable give the applicant an information notice for the decision.

### **Subdivision 3      Other provisions**

#### **261G Particular persons not to enter or remain in licensed premises or gaming machine area**

A person who is prohibited from entering or remaining in licensed premises or a gaming machine area under a self-exclusion order or an exclusion direction must not enter or remain in the licensed premises or gaming machine area.

Maximum penalty—40 penalty units.

#### **261H Counselling**

- (1) This section applies if a court finds a person (the *defendant*) guilty of, or accepts a person's plea of guilty for, an offence against section 261G.
- (2) The court may, if satisfied the defendant is a problem gambler, postpone its decision on penalty on condition that the defendant agrees to attend counselling on a basis decided by the court.
- (3) The agreement—
  - (a) must provide for counselling of a kind that may, in the court's opinion, be beneficial in helping to overcome harmful behaviour related to gambling; and
  - (b) must provide for counselling over a period, of not more than 12 months, fixed by the court; and
  - (c) must allow the counsellor a discretion to disclose to the court information about the defendant's participation in the counselling if the counsellor believes the disclosure will help the court to exercise its powers and discretions in an appropriate way under this section; and

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- (d) must provide that the counsellor is to report to the court a failure by the defendant to attend counselling under the agreement.
  - (4) To decide whether the defendant is a problem gambler and, if so, whether counselling of an appropriate kind is available, the court may have regard to any information the court considers relevant, including, for example, a report of a psychiatrist or a psychologist.
  - (5) If the court postpones a decision on penalty under this section, the court must proceed to make a decision on penalty—
    - (a) as soon as practicable after the end of the period fixed for the counselling; or
    - (b) if, during the period fixed for the counselling, the defendant advises the court that he or she does not want to continue with the counselling—as soon as practicable after the court receives the advice; or
    - (c) if, during the period fixed for the counselling, the counsellor reports to the court that the defendant has failed to attend counselling under the agreement or to participate satisfactorily in the counselling—as soon as practicable after the court receives the report.
  - (6) In making its decision on penalty after a postponement under this section, the court—
    - (a) must consider whether and, if so, to what extent, the defendant has made a genuine attempt to overcome harmful behaviour related to gambling; and
    - (b) may, for considering the matters mentioned in paragraph (a), have regard to the report of a counsellor appointed to counsel the defendant under an agreement under this section.

**261I Obligation to prevent person from entering or remaining in licensed premises or gaming machine area**

- (1) This section applies to a licensee or an employee of the licensee if the licensee or employee knows that a person is

prohibited from entering or remaining in the licensee's licensed premises, or a gaming machine area on the licensed premises, under a self-exclusion order or an exclusion direction.

- (2) The licensee or employee must take reasonable steps to prevent the person from entering or remaining in the licensed premises or gaming machine area.

Maximum penalty—

- (a) for a licensee—250 penalty units; or
  - (b) for another person—40 penalty units.
- (3) It is lawful for the licensee or employee to use necessary and reasonable force to prevent the person from entering or remaining in the licensed premises or gaming machine area.
  - (4) The force that may be used does not include force that is likely to cause bodily harm to the person.
  - (5) Subsection (2) must not be construed as requiring a licensee or an employee to use reasonable force to prevent a person from entering or remaining in the licensed premises or gaming machine area.

### **261J Register**

- (1) A licensee must keep a register, in the approved form, of persons who are prohibited from entering or remaining in the licensee's licensed premises, or a gaming machine area on the licensed premises, under a self-exclusion order or an exclusion direction.

Maximum penalty—40 penalty units.

- (2) The licensee must keep the register available for inspection by an inspector.

### **261K Report about prohibition under order or direction**

- (1) A regulation may require a licensee to give the commissioner a report about the prohibition of persons from entering or

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remaining in the licensee's licensed premises, or a gaming machine area on the licensed premises, under a self-exclusion order or an exclusion direction.

- (2) The report must be in the approved form.
- (3) The regulation may prescribe the times, and the way in which, the report is to be given to the commissioner.
- (4) The licensee must comply with the regulation.

Maximum penalty—40 penalty units.

### **261L Distributing promotional or advertising material about licensed premises**

A licensee must not distribute promotional or advertising material about the licensee's licensed premises to a person who the licensee knows or ought reasonably to know is prohibited from entering or remaining in the licensed premises, or a gaming machine area on the licensed premises, under a self-exclusion order or exclusion direction.

Maximum penalty—40 penalty units.

### **262 Removal of certain persons**

- (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 237; 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.

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- (2) A licensee must cause to be removed from the licensee's licensed premises a person who is prohibited under section 258(2) 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).
- (4) The force that may be used does not include force that is likely to cause bodily harm to the person.

## **Division 11                      Obstructing licensees and other persons**

### **263      Obstruction to removal from licensed premises**

If a person is seeking under section 262(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.

### **264      Obstruction generally**

A person must not obstruct or hinder a licensee, gaming employee 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.



### **264C Report about particular activities**

- (1) A regulation may require a licensee to give a report to the commissioner about activities undertaken by the licensee in relation to the conduct of the licensee's gaming operations to help ensure the gaming operations are conducted in compliance with this Act.
- (2) The report must be in the approved form.
- (3) The regulation may prescribe the times, and the way in which, the report is to be given to the commissioner.
- (4) The licensee must comply with the regulation.

Maximum penalty—40 penalty units.

## **Part 7 Control of gaming machines**

### **265 Manufacture, sale, supply, obtaining or possession of gaming machines**

- (1) A person must not manufacture, sell, supply, obtain or be in possession of—
  - (a) a gaming machine; or
  - (b) linked jackpot equipment; or
  - (c) a device capable of being represented as being a gaming machine or linked jackpot equipment;

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.

- (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.

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- (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 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.

**265A Dealing with gaming equipment etc. by monitoring operators and approved financiers**

- (1) A licensed monitoring operator or an approved financier is authorised to—
  - (a) obtain and be in possession of gaming machines, linked jackpot equipment and restricted components; and
  - (b) sell or supply, on written order with the commissioner's written approval, gaming machines to a licensed

monitoring operator, an approved financier, a licensee or a gaming trainer; and

- (c) sell or supply, on written order, gaming machines, linked jackpot equipment or restricted components to a person in another State or Territory or a country where possession of the gaming machines, linked jackpot equipment or restricted components by that person is lawful.
- (2) A licensed monitoring operator is also authorised to manufacture linked jackpot equipment.

**266 Possession of gaming equipment and other property by licensed monitoring operators**

- (1) A licensed monitoring operator must not use premises for storing or handling designated property, unless the premises are approved by the commissioner for the purpose.

Maximum penalty—200 penalty units.

- (2) An application for the approval of premises must be made in the way prescribed under a regulation.
- (3) In this section—

*designated property* means—

- (a) gaming equipment; or
- (b) property of a licensed monitoring operator that is ancillary or related to the operator's gaming equipment; or
- (c) restricted components.

**267 Possession etc. of gaming equipment and other things by licensed major dealers**

- (1) A licensed major dealer is authorised to—
- (a) manufacture, obtain and be in possession of gaming machines, linked jackpot equipment and restricted components; and

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- (b) sell or supply, on written order—
    - (i) gaming machines or linked jackpot equipment to a licensed major dealer; and
    - (ii) gaming machines, with the commissioner's written approval, to a licensed monitoring operator, an approved financier, a licensee or a gaming trainer; and
    - (iii) linked jackpot equipment or restricted components to a licensed service contractor, licensed repairer or other person authorised under this Act to obtain and be in possession of the equipment or components; and
  - (c) sell or supply, on written order, gaming machines, linked jackpot equipment or restricted components to a person in another State or a Territory or a country where possession of such gaming machines, linked jackpot equipment or restricted components by that person is lawful; and
  - (d) sell or supply gaming machines, linked jackpot equipment or restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.
- (2) A licensed major dealer must not use any premises for the manufacture, assembly, storage or handling of designated equipment unless the premises are approved by the commissioner for the purpose.
- Maximum penalty—200 penalty units.
- (2A) An application for the approval of premises must be made in the way prescribed under a regulation.
- (3) A licensed major dealer 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 testing by the commissioner of a particular device; or

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- (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 commissioner 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) In this section—

*designated equipment* means—

- (a) gaming equipment; or
- (b) property of a licensed major dealer that is ancillary or related to the dealer's gaming equipment; or
- (c) restricted components.

**267A Possession etc. of particular gaming equipment by licensed testing facility operator**

- (1) A licensed testing facility operator is authorised to obtain and be in possession of gaming equipment or restricted components for testing the equipment or components.
- (2) A licensed testing facility operator must not use premises to test designated equipment unless the commissioner has approved the premises for testing the equipment.

Maximum penalty—200 penalty units.

- (3) An application for the approval of premises must be made in the way prescribed under a regulation.
- (4) In this section—

*designated equipment* means—

- (a) gaming equipment; or

- (b) property of a licensed testing facility operator that is ancillary or related to the gaming equipment in the operator's possession; or
- (c) restricted components.

**268 Possession etc. of restricted components by licensed secondary dealers**

- (1) A licensed secondary dealer 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 licensed secondary dealer 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 testing by the commissioner 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 commissioner 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.

**269 Possession etc. of gaming equipment and other things by licensed repairers**

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 equipment to the extent necessary to install, repair, remove or reinstate the machine or equipment; and
- (e) be in possession of linked jackpot equipment, or with the commissioner's written approval, a gaming machine for the purpose of using the equipment or machine for spare parts.

**270 Possession etc. of gaming equipment and other things by licensed service contractors**

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

- (d) be in possession of a gaming machine or linked jackpot equipment to the extent necessary to install, repair, remove or reinstate the machine or equipment; and
- (e) be in possession of linked jackpot equipment, or with the commissioner's written approval, a gaming machine, for the purpose of using the equipment or machine for spare parts.

**271 Possession etc. of gaming equipment and other things by licensees**

- (1) A licensee is authorised to—
  - (a) obtain or be in possession of—
    - (i) the licensee's authorised gaming machines; and
    - (ii) linked jackpot equipment for a linked jackpot arrangement involving the licensee's authorised gaming machines; 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) sell or supply authorised gaming machines or restricted components to—
    - (i) another licensee; or
    - (ii) another person authorised under this Act to obtain and be in possession of the gaming machines or restricted components.
- (2) A licensee must not, on the licensee's licensed premises, be in possession of, or allow a person to play, a gaming machine unless—
  - (a) the gaming machine is an authorised gaming machine of the licensee; and
  - (b) the game for the machine is an approved game, whether or not changed by an alteration of the gaming machine under this Act.

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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.
- (4) If a licensee's gaming machine licence is cancelled, the licensee may be in possession of gaming machines and restricted components supplied to the licensee under this section until—
  - (a) the end of the period allowed for appealing against the decision to cancel the licence; or
  - (b) if an appeal is made against the decision—the appeal is finally decided.

**272 Possession etc. of gaming machines etc. by other persons**

- (1) A person who carries out any installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of section 187(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, be in possession of or test gaming machines, linked jackpot equipment or restricted components, for the purpose of transporting the gaming machines, linked jackpot equipment or restricted components is authorised to have possession of the gaming machines, linked jackpot equipment 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 equipment and restricted components subject to—

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- (a) the gaming machines, linked jackpot equipment and restricted components being provided by—
    - (i) the commissioner, a licensee or an approved financier; or
    - (ii) a licensed monitoring operator, licensed major dealer, licensed service contractor or licensed repairer; or
    - (iii) another gaming trainer.
  - (b) compliance with all conditions (including the payment of fees) as may be imposed by the commissioner.
- (4) The commissioner, an inspector, a departmental officer and a police officer are authorised to obtain and be in possession of gaming machines, linked jackpot equipment, restricted components and devices capable of being represented as being gaming machines or linked jackpot equipment 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 commissioner may manufacture, obtain, be in possession of or use (other than for gaming or the conduct of gaming) a gaming machine, linked jackpot equipment, a restricted component or a device capable of being represented as being a gaming machine or linked jackpot equipment.

### **273 Gaming equipment not to be encumbered**

- (1) An encumbrance over gaming equipment is of no effect.
- (2) Subsection (1) does not apply to an encumbrance given by—
  - (a) a licensed monitoring operator to an approved financier; or
  - (b) a licensee or gaming trainer to a licensed monitoring operator or approved financier.

**274 Repossession of gaming machines**

- (1) A licensed monitoring operator or approved financier must not repossess a gaming machine without first obtaining the commissioner's written approval.

Maximum penalty—100 penalty units.

- (2) For obtaining the commissioner's approval for subsection (1), an application must be made to the commissioner.
- (3) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation for the application.

**275 Storage of gaming machines by operators and financiers**

- (1) Each licensed monitoring 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 commissioner.
- (2) A licensed monitoring operator must not store a gaming machine for more than 1 year without the commissioner's written approval.

Maximum penalty for subsection (2)—200 penalty units.

- (3) An approved financier must not store a gaming machine for more than 2 months without the commissioner's written approval.

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

**276 Operators and approved financiers must keep registers of gaming machines**

- (1) A licensed monitoring operator and an approved financier must each keep a register listing—

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- (a) for a licensed monitoring operator—all gaming machines owned or monitored by the operator or leased by the operator from another person; and
  - (b) for an approved financier—all gaming machines owned by the financier or leased by the financier from another approved financier.

Maximum penalty—100 penalty units.

- (2) The register must be in the approved form.
- (3) In this section—

*leased* includes supplied under a hire-purchase agreement under the *Hire-purchase Act 1959* and subleased.

## **281 Approval and rejection of gaming machines and games**

- (1) The commissioner may accept gaming machine types and games from a person (the *applicant*) for testing.
- (2) If the commissioner accepts a gaming machine type or game for testing, the commissioner must—
  - (a) carry out the test; or
  - (b) direct the applicant—
    - (i) to arrange to have the gaming machine type or game tested by a licensed testing facility operator; and
    - (ii) to give the commissioner a written report of the test in the approved form.
- (3) If the commissioner decides to carry out the test, the commissioner may require the applicant to give the commissioner further information or material for the test.
- (4) A requirement under subsection (3)—
  - (a) must be made by written notice given to the applicant; and

- (b) may only relate to information or material that is necessary and reasonable for carrying out an appropriate test.
- (5) The notice mentioned in subsection (4)(a) must state the period within which the requirement is to be complied with.
- (6) If the commissioner carries out a test of a gaming machine type or game—
  - (a) the applicant must pay the fee prescribed under a regulation for the test to the commissioner; and
  - (b) if an amount of the fee is not paid by the applicant, the State may recover the amount from the applicant as a debt.
- (7) As soon as practicable as the circumstances allow, the commissioner may either approve or reject a gaming machine type or game accepted by the commissioner under this section.
- (8) The commissioner may reject a gaming machine type or game if—
  - (a) the fee payable for a test carried out by the commissioner is not paid; or
  - (b) the applicant fails to comply with—
    - (i) a direction of the commissioner under subsection (2)(b); or
    - (ii) a requirement of the commissioner under subsection (3).
- (9) A rejection under subsection (8)(b) may be made without a test having been carried out.
- (10) If the commissioner approves a gaming machine type or game, the commissioner must immediately give the applicant written notice of the decision.
- (11) If the commissioner rejects a gaming machine type or game, the commissioner must immediately give the applicant an information notice for the decision.

## 282 Replacing approved games

- (1) This section applies if—
  - (a) a licensed monitoring operator or licensee replaces, or causes to be replaced, an approved game (the *old game*) with another approved game (the *new game*); and
  - (b) the percentage return to players for the new game is different from the percentage return to players for the old game.
- (2) The licensed monitoring operator or licensee must not replace, or cause to be replaced, the new game with another game having a different percentage return to players—
  - (a) if paragraph (b) does not apply—within 1 month after the old game was replaced; or
  - (b) if a shorter period is approved by the commissioner—within the shorter period.

Maximum penalty—200 penalty units.

## 283 Changes to percentage returns

- (1) A licensed monitoring operator or licensee may change, or cause to be changed, the percentage return to players for an approved game for a gaming machine on licensed premises.
  - (2) Unless the commissioner, by written notice given to the licensed monitoring operator or licensee, approves otherwise, the change must be applied to each gaming machine that—
    - (a) is installed on the licensed premises; and
    - (b) has the same game and betting unit as the gaming machine to which the change relates; and
    - (c) is not part of a linked jackpot arrangement.
- (2A) If—
- (a) a gaming machine (the *new machine*) is installed on licensed premises; and

- (b) the gaming machine has the same game and betting unit as another gaming machine (the *old machine*) previously installed on the licensed premises; and
- (c) the percentage return to players differs between the new machine and the old machine;

the licensee is taken to have changed the percentage return to players under subsection (1) for the new machine.

- (2B) A person may apply to the commissioner for an approval under subsection (2).
- (2C) The application must be accompanied by the fee prescribed under a regulation.
- (3) A person must not make, or cause to be made, a change mentioned in subsection (1) (a *return change*) in the period prescribed under a regulation (the *restricted period*).

Maximum penalty—200 penalty units.

- (4) A person does not commit an offence against subsection (3) if—
  - (a) ownership of a gaming machine mentioned in subsection (2) changes in the restricted period; and
  - (b) a return change is made in the period but—
    - (i) only after the change of ownership; and
    - (ii) only once in the period.

#### **284 Withdrawal of approval of gaming machine types and games**

- (1) If the commissioner, under section 344(2) withdraws the approval of an approved gaming machine type or game, the commissioner 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 281; 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.

**285 Gaming machines supplied to be in accordance with approval**

A licensed major dealer must not, without the approval of the commissioner, supply a gaming machine that is in any material particular different from the gaming machine type or game approved by the commissioner.

Maximum penalty—200 penalty units.

**286 Inducing the acquisition of gaming equipment or ancillary or related equipment**

- (1) A person (the *offerer*) must not offer another person (the *negotiator*), or give to the negotiator, an inducement for the negotiator to induce a third person, who is an acquirer, to acquire equipment or a service.

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

- (2) A negotiator must not accept an inducement for the acquisition by an acquirer of equipment or a service.

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

- (3) A person does not commit an offence against subsection (1) or (2) if the inducement consists of only reasonable food or refreshment offered or given by the offerer, or out-of-pocket expenses reasonably incurred by the negotiator, in the course of negotiating the acquisition of the equipment or service.

- (4) In this section—

***acquirer*** means an approved financier, gaming trainer, licensed monitoring operator, licensed repairer, licensed service contractor or licensee.

***equipment*** means gaming equipment or ancillary or related equipment.

***inducement*** means a direct or indirect payment, benefit or advantage.

*Example of what is an inducement—*

a prepaid holiday trip

***service*** includes the provision of any of the following—

- finance
- adjustment, alteration, installation, maintenance or repair of gaming equipment
- linked jackpots
- management advice
- marketing
- training.

## **287 Requirements for linked jackpot arrangements and approved trust accounts**

- (1) A person who is not a licensee or licensed monitoring operator must not—
  - (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.

Maximum penalty—200 penalty units.

- (2) A licensee on the licensee's licensed premises, or licensed monitoring operator, must not, without the approval of the commissioner—

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- (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.

Maximum penalty—200 penalty units.

- (4) A licensee or a licensed monitoring operator approved to operate, or participate in the operation of, an arrangement under subsection (2) must not stop operating, or participating in the operation of, the arrangement without the commissioner's approval.

Maximum penalty—200 penalty units.

- (5) A licensee or licensed monitoring operator operating, or participating in the operation of, any arrangement approved under subsection (2) 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 approved under subsection (2);

commits an offence against this Act.

Maximum penalty—200 penalty units.

- (6) The licensed monitoring 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, a licensed monitoring operator must—
  - (a) pay into the approved trust account—
    - (i) all multiple site jackpot increments for the arrangement for the previous assessment period; and
    - (ii) interest earned on the account; and

- (b) pay out of the approved trust account amounts prescribed under a regulation.
- (8) A licensed monitoring operator must not pay an amount out of an approved trust account unless the amount is prescribed under a regulation.  
Maximum penalty—400 penalty units or 2 years imprisonment.
- (9) If the arrangement stops operating and the approved trust account still contains an amount, the licensed monitoring operator must, after deducting amounts to be paid out under subsection (7)(b)—
  - (a) if the operator stops conducting monitoring operations when the arrangement stops operating—give the amount to the commissioner, for payment into the consolidated fund, within 7 days after the day the account stops operating; or
  - (b) if the operator continues to conduct monitoring operations after the arrangement stops operating—deal with the amount in the way approved by the commissioner, having regard to the amount in the approved trust account and the interests of players of gaming machines.
- (10) An amount paid, or required to be paid, into an approved trust account under this section can not be—
  - (a) used for payment of the debt of a creditor of a licensed monitoring operator; or
  - (b) attached or taken in execution under a court order or process by a creditor.

**288 Decisions about approvals for linked jackpot arrangements**

- (1) This section applies to the commissioner for giving, or refusing to give, an approval for section 287 for a linked jackpot arrangement.

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- (2) If, for deciding whether or not to give the approval, the commissioner considers it is necessary for the linked jackpot arrangement to be tested, the commissioner may—
    - (a) carry out the test; or
    - (b) direct the applicant—
      - (i) to arrange to have the arrangement tested by a licensed testing facility operator; and
      - (ii) to give the commissioner a written report of the test in the approved form.
  - (3) If the commissioner carries out a test of the linked jackpot arrangement—
    - (a) the applicant must pay the fee prescribed under a regulation for the test to the commissioner; and
    - (b) if an amount of the fee is not paid by the applicant, the State may recover the amount from the applicant as a debt.
  - (4) The commissioner may refuse to give an approval if—
    - (a) the fee payable for a test carried out by the commissioner is not paid; or
    - (b) the applicant fails to comply with a direction of the commissioner under subsection (2)(b).
  - (5) If the commissioner gives the approval, the commissioner must immediately give the applicant written notice of the decision.
  - (6) If the commissioner refuses to give the approval, the commissioner must immediately give the applicant an information notice for the decision.
  - (7) In this section—

*applicant* means the person by whom an approval of the commissioner for section 287 is sought.

## **290 Gaming prohibited on unprotected devices**

- (1) A licensee must not without lawful excuse be in possession of or permit gaming on a gaming machine unless the computer cabinet and site controller of the gaming machine are 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 292(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 or site controller of a gaming machine has been removed, broken or damaged, the licensee must not permit gaming on the gaming machine until the gaming machine or site controller has been examined by an inspector or other person properly authorised by the commissioner in that behalf and the computer cabinet or site controller 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) installation, alteration, adjustment, maintenance or repair by a licensed repairer acting under this Act; or
  - (b) an alteration to effect a change of game directed by the commissioner under section 80(1).

## **291 Unlawful interference with gaming equipment**

- (1) Subject to subsection (2), a person must not—
  - (a) have possession of any device or computer software made or adapted, or intended by the person to be used,

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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 287, 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 approved game; 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 monitoring operator or licensed repairer; or
  - (b) the carrying out of any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 187(3); or
  - (c) an alteration to a gaming machine to effect a change of game directed by the commissioner under section 80(1); or
  - (d) the performance by an inspector of functions under this Act.

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- (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.

## **292 Protection of sensitive areas of gaming equipment**

- (1) Subject to subsections (2), (4) and (5), a person who is not an inspector must not—
- (a) break a seal securing a computer cabinet or site controller of a gaming machine, or gain access to anything within the computer cabinet or site controller; or
  - (b) affix a seal to a computer cabinet or site controller of a gaming machine; 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 site controller of a gaming machine, or anything within the computer cabinet or site controller; 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

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- (g) interfere with information stored or transmitted electronically by a gaming machine, linked jackpot equipment or an 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.

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) if the licensed repairer does not, without the approval of the licensed monitoring operator—
  - (a) break a seal securing a computer cabinet; or
  - (b) fix a seal to a computer cabinet; or
  - (c) remove or interfere with a mark or seal fixed to gaming equipment to preserve the integrity of the equipment's operation; or
  - (d) fix a mark or seal to gaming equipment to preserve the integrity of the equipment's operation.
- (3) If the licensed repairer breaks a seal securing a computer cabinet or site controller of a gaming machine, the licensed repairer must ensure that the gaming machine is not played, other than for testing purposes, until the computer cabinet or site controller is again secured with a seal approved by the commissioner.

Maximum penalty—200 penalty units.

- (4) The commissioner may authorise a person to do anything mentioned in subsection (1).

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- (5) Subsection (1)(a) to (j) does not apply to—
- (a) an electronic monitoring system not on licensed premises; or
  - (b) another type of gaming equipment—
    - (i) not connected to an electronic monitoring system; and
    - (ii) not installed in a gaming machine area.

### **292A Licensee's obligation about site controller**

A licensee must ensure that each site controller of a gaming machine at the licensee's licensed premises—

- (a) has a label securely fixed to the site controller clearly identifying it as a site controller; and
- (b) is installed at the premises in a way that allows an inspector to have unfettered access to the site controller, including the seal and any manufacturer's identification plate or label fixed to the site controller.

Maximum penalty—200 penalty units.

### **293 Wilful damage of gaming equipment**

A person must not wilfully damage or deface gaming equipment on licensed premises.

Maximum penalty—200 penalty units.

### **294 Use of unauthorised gaming machines**

- (1) A person who is not a departmental officer or any person referred to in subsection (2) must not play or allow another person to play a gaming machine that is not a licensee's authorised gaming machine.

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

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- (2) A person who has possession of a gaming machine—
- (a) for the purpose of conducting—
    - (i) a training course referred to in section 267(3)(d) or 272(3); or
    - (ii) genuine testing or development work referred to in section 267(3)(c); or
  - (b) under an authority under section 272(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 240(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 8 Accounting procedures

### 295 Monthly money clearances

- (1) Subject to subsection (2), a licensee must carry out a money clearance complying with section 297 of all gaming machines, any centralised credit system and any TITO system installed on the licensee's licensed premises—

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- (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.

Maximum penalty—200 penalty units.

- (2) The commissioner 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 commissioner determines.
- (3) A licensee to whom a direction is given under subsection (2) must comply with the direction.

Maximum penalty—200 penalty units.

- (4) 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 for subsection (4)—200 penalty units.

## **296 Periodic money clearances**

- (1) A licensee must, at least 4 times a month, carry out a money clearance complying with section 297 of the following installed on the licensee's licensed premises—
  - (a) each gaming machine;
  - (b) any centralised credit system;
  - (c) any TITO system.

Maximum penalty—200 penalty units.

- (2) The money clearances required to be carried out by a licensee under subsection (1) must be carried out at intervals of not more than 10 days.

Maximum penalty—200 penalty units.

- (3) The money clearance carried out by a licensee under section 295(1) in a particular month is taken to be one of the

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money clearances required to be carried out in the month by the licensee under subsection (1).

- (4) 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 for subsection (4)—200 penalty units.

### **297 Requirement for money clearance**

- (1) This section applies for carrying out a money clearance under section 295 or 296.
- (2) For a money clearance of a gaming machine, the gaming tokens to be removed from the gaming machine are all the tokens in the gaming machine, other than gaming tokens in the hopper.
- (3) For a money clearance of a centralised credit system or TITO system, the amount to be deducted is the amount calculated on the basis fixed under a regulation.

### **298 Accounts and analyses**

- (1) A licensee must, for each of the licensee's licensed premises, 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 premises.

Maximum penalty—200 penalty units.

- (2) A licensee must carry out such accounting analysis as is prescribed.

Maximum penalty for subsection (2)—200 penalty units.

**299 Monthly gaming machine reconciliation reports**

- (1) A licensee of category 1 or 2 licensed premises must, for each of the licensee's licensed premises—
- (a) by the day prescribed under a regulation for each month, prepare a monthly gaming machine reconciliation report complying with subsection (2) for the premises; and
  - (b) keep a hard copy of the report on the premises.

Maximum penalty—200 penalty units.

- (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 kept in respect of the licensed premises to the end of the period covered by the report in question.

**300 Records not to be falsified etc.**

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.

### **301 Licensees audit guidelines**

- (1) The commissioner may prepare guidelines (*licensees audit guidelines*) for the carrying out of audits for the gaming operations of category 2 licensees.
- (2) The commissioner must keep copies of the licensees audit guidelines available for inspection and permit a person—
  - (a) to inspect the guidelines without fee; and
  - (b) to take extracts from the guidelines without fee.
- (3) Also, the commissioner must keep copies of the licensees audit guidelines available for supply to persons and permit a person to obtain a copy of the guidelines, or a part of the guidelines, without fee.
- (4) For subsection (2)—
  - (a) copies of the licensees audit guidelines—
    - (i) must be kept at the head office and any regional office of the department; and
    - (ii) may be kept at any other place the commissioner considers appropriate; and
  - (b) the copies of the guidelines kept at a place must be available for inspection during office hours on business days for the place.

### **302 Audit of gaming operations**

- (1) As soon as practicable after the end of a financial year, a category 2 licensee must, for each of the licensee's licensed premises, at the licensee's own expense, cause the licensee's accounts and accounting records for the licensee's gaming

operations for the licensed premises for the financial year to be audited by an approved accountant.

Maximum penalty—200 penalty units.

- (2) If a category 2 licensee ceases to be a category 2 licensee of premises, the person (the *former licensee*) must, within the required time, at the former licensee's own expense, cause the former licensee's accounts and accounting records for the former licensee's gaming operations for the premises for the operating period to be audited by an approved accountant.

Maximum penalty—200 penalty units.

- (3) The required time for the former licensee to take action under subsection (2) is—

- (a) the period ending 1 month after the former licensee ceases to be a category 2 licensee; or
- (b) if the commissioner extends, or further extends, the period for the former licensee to take the action, by written notice given to the former licensee in the period or extended period—the period as extended.

- (4) In this section—

*operating period*, for a former licensee, means—

- (a) if an audit for the former licensee's gaming operations has been done for subsection (1)—the period—
- (i) starting on the day immediately after the end of the period to which the audit, or last audit, related; and
- (ii) ending on the day the former licensee ceased to be a category 2 licensee; and
- (b) if paragraph (a) does not apply—the period starting on the day the former licensee's gaming operations started and ending on the day the former licensee ceased to be a category 2 licensee.

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**303 Carrying out of audit**

- (1) An approved accountant carrying out an audit for section 302(1) or (2) must—
- (a) to the extent it is reasonably practicable, comply with any licensees audit guidelines; and
  - (b) complete the audit within 3 months after the end of the financial year or other period to which the audit relates; and
  - (c) immediately after completing the audit, give a copy of the audit report to the category 2 licensee or former licensee.

Maximum penalty—40 penalty units.

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

**304 Dealing with audit report**

Within 14 days after a category 2 licensee or former licensee receives a copy of an audit report under section 303(1)(c), the category 2 licensee or former licensee must give a copy of the report to the commissioner.

Maximum penalty—200 penalty units.

**305 Community benefit statement and other associated documents for audit report for category 2 licensee**

- (1) A category 2 licensee, on receiving a copy of an audit report under section 303(1)(c) for a financial year, must, in addition to giving a copy of the report to the commissioner under

section 304, give to the commissioner, as required by this section—

- (a) if the approved accountant who carried out the audit issued a management letter in relation to the audit—a copy of the management letter; and
- (b) a statement—
  - (i) stating the number of members in each class of membership of the licensee at the end of the financial year; and
  - (ii) identifying each class of membership of the licensee for which the members in the class have voting rights; and
- (c) a copy of a profit and loss statement containing details of all revenue received, and expenditure incurred, by the licensee in carrying on the licensee's general operations for the licensee's licensed premises to which the audit report relates for the financial year; and
- (d) a copy of any balance sheet, financial statement, auditor's report or other statement or report, relating to the licensee's annual general meeting for the financial year; and
- (e) a statement, in the approved form, containing details of all benefits given by the licensee to each of the following persons in the financial year—
  - (i) a member of the licensee's management committee or board, or the secretary of the licensee;
  - (ii) a lessor of the licensee's licensed premises;
  - (iii) a person who—
    - (A) has entered into an agreement or an arrangement with the licensee about the management of the licensee's business or operations; or
    - (B) is responsible for the day to day management of the operation of the licensed premises;

- (iv) a person who is an associate of a person mentioned in subparagraphs (i) to (iii);
- (v) another person prescribed under a regulation; and
- (f) if the licensee operates more than a number of gaming machines fixed for this paragraph under a regulation—a community benefit statement detailing all financial contributions made, and other support given, during the financial year to charitable, sporting, recreational and other community associations and initiatives.

Maximum penalty—200 penalty units.

- (2) The profit and loss statement to be given to the commissioner under subsection (1)(c) must—
  - (a) distinguish between revenue received from the sale of liquor for consumption on the licensed premises and the revenue received from the sale of liquor for consumption off the licensed premises; and
  - (b) comply with any other reasonable requirements notified in writing to the licensee by the commissioner.
- (3) The approved form under subsection (1)(e) must include provision for the following—
  - (a) the name of the person to whom the benefit is given;
  - (b) the nature of the benefit;
  - (c) the amount or monetary value of the benefit.
- (4) A document mentioned in subsection (1)(a), (b), (e) or (f) must be given to the commissioner with the copy of the audit report given to the commissioner.
- (5) A document mentioned in subsection (1)(c) or (d) must be given to the commissioner—
  - (a) if the category 2 licensee’s annual general meeting for the financial year was held before the licensee received the copy of the audit report—with the copy of the audit report given to the commissioner; or

- (b) if paragraph (a) does not apply—within 14 days after the licensee’s annual general meeting for the financial year is held.
- (6) Subsection (1) applies to the category 2 licensee in relation to the profit and loss statement mentioned in paragraph (c) of the subsection only to the extent to which a document mentioned in paragraph (d) of the subsection does not contain the details mentioned in paragraph (c), specifically relating to the licensee’s licensed premises to which the audit report relates.
- (7) Despite subsection (1)(e), the statement mentioned in that paragraph need not contain details of approved benefits given to a person if the total amount or monetary value of the approved benefits is less than an amount prescribed under a regulation.
- (8) Words and expressions used in a gaming Act and subsection (9), definition *general operations*, paragraph (b) have the same meanings in that paragraph as they have in the gaming Act.
- (9) In this section—

***approved benefit*** means a benefit that is approved by a category 2 licensee’s management committee or board as a benefit that may be given by the licensee to a person.

***benefit*** includes the following—

- (a) salaries, wages, allowances and financial incentives;
- (b) a payment under a lease, agreement or arrangement;
- (c) service and advantage.

***general operations***, of a licensee, means operations conducted by the licensee—

- (a) under the licensee’s gaming machine licence; or
- (b) in relation to the conduct of—
  - (i) keno games under a keno licence; or
  - (ii) wagering under the *Wagering Act 1998*; or

- (iii) general gaming operations under the *Charitable and Non-Profit Gaming Act 1999*; or
- (c) relating to the supply of—
  - (i) liquor and other beverages; and
  - (ii) food.

**monetary value**, for a benefit that is not money, means the value of the benefit in monetary terms reasonably estimated by the management committee or board of the licensee who gave the benefit.

### **306 Further information about audit report or associated documents**

- (1) This section applies on the receipt by the commissioner of—
  - (a) a copy of an audit report under section 304; or
  - (b) a document under section 305.
- (2) The commissioner may, by written notice given to the person from whom the copy of the audit report or other document is received, require the person to give the commissioner, within a reasonable time stated in the notice, the information stated in the notice.
- (3) The commissioner may require a person to give the commissioner information about a matter under subsection (2) only if—
  - (a) the matter relates to the person's general operations; and
  - (b) the matter is mentioned in, or arises out of—
    - (i) the audit report a copy of which is received by the commissioner from the person; or
    - (ii) the other document received by the commissioner from the person.
- (4) When making a requirement of a person under subsection (2), the commissioner must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

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- (5) A person to whom a notice is given under subsection (2) must comply with the requirement mentioned in the notice within the stated time, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (6) 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.
- (7) In this section—  
*general operations* has the same meaning as in section 305.

### **307 Notices about keeping accounting records**

- (1) The commissioner may, by written notice given to a licensee—
- (a) approve, as a place at which the licensee may keep the licensee's accounting records for licensed premises of the licensee, a place, other than the licensed premises, nominated by the licensee; or
  - (b) specify an accounting record of the licensee (an *exempt accounting record*) that may be kept at a place that is not an approved place for the keeping of the record; or
  - (c) specify an accounting record of the licensee that may be kept temporarily at a place (a *holding place*) that is not an approved place for the keeping of the record, and the period for which, or the circumstances in which, the record may be kept at the holding place; or
  - (d) approve the keeping of information contained in an accounting record of the licensee in a way different from the way the information was originally kept; or
  - (e) approve the destruction of an accounting record of the licensee the commissioner considers need not be kept.
- (2) The commissioner may specify an accounting record for subsection (1)(b) only if the commissioner considers there is sufficient reason for the record to be kept at a place that is not an approved place for the keeping of the record.

- (3) An accounting record mentioned in subsection (1)(c) is also an *exempt accounting record*—
  - (a) for the period stated in the notice; or
  - (b) while the circumstances stated in the notice exist.
- (4) The exercise of the commissioner's power under subsection (1)(d) or (e) is subject to any other law about the retention or destruction of the accounting record.

### **308 Keeping accounting records**

- (1) A licensee must keep the licensee's accounting records for licensed premises of the licensee at a place that is an approved place for the keeping of the records.  
Maximum penalty—40 penalty units.
- (2) A licensee must ensure an accounting record of the licensee is available for inspection by an inspector at the approved place for the keeping of the record for at least 1 year after the end of the transaction to which the record relates.  
Maximum penalty—100 penalty units.
- (3) Subsections (1) and (2) do not apply to an exempt accounting record.

### **309 Period for which licensee's accounting records to be kept**

- (1) A licensee must keep an accounting record of the licensee for 5 years after the end of the transaction to which the record relates.  
Maximum penalty—40 penalty units.
- (2) Subsection (1) does not apply to an accounting record if—
  - (a) the information previously contained in the record is kept in another way under an approval of the commissioner; or
  - (b) the record has been destroyed under an approval of the commissioner.

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

## **Part 9                      Financial provisions**

### **Division 1                      Assessment of monthly taxable metered wins**

#### **310      Monthly taxable metered win**

- (1) Each month the commissioner must, for the preceding month, make an assessment of the monthly taxable metered win of each licensed premises and, subject to section 323, the assessment is taken to be the monthly taxable metered win for the premises for the preceding month.
- (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 commissioner and ends when the system first reports data from the premises to the commissioner 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 commissioner for the month and ends when the system first reports data from the premises to the commissioner in the next month.
- (3) If the electronic monitoring system malfunctions in a way that affects the assessment, the commissioner must ensure the assessment is made in another way decided by the commissioner.

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## **Division 2                      Gaming machine tax and relevant funds**

### **312      Gaming machine tax**

- (1) A licensee must pay a gaming machine tax to the commissioner 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 payable by the licensee in respect of each premises to which the licensee's licence relates is the amount represented by the percentage prescribed, for the category of licensed premises to which the premises belong, of the monthly taxable metered win for the premises for the month for which the tax is payable.

### **315      Gambling community benefit fund**

- (1) The gambling community benefit fund is established.
- (2) Subject to any necessary appropriation, an amount may be paid into the fund from the consolidated fund.
- (3) The Minister may pay an amount from the fund to an entity for the benefit of the community.
- (4) Before paying an amount under subsection (3), the Minister must consider any relevant recommendations given to the Minister by the Gambling Community Benefit Committee established under section 316.

### **316      Gambling Community Benefit Committee**

The Minister responsible for the administration of the gambling community benefit fund—

- (a) must establish a committee called the Gambling Community Benefit Committee; and

- (b) may decide—
  - (i) the membership of the committee; and
  - (ii) how it is to operate.

### **Division 3                    Health services levy**

#### **316A Purpose of div 3**

- (1) The purpose of this division is to provide for a levy payable by each category 1 licensee based on the monthly taxable metered win for the licensee's licensed premises.
- (2) Amounts attributable to the levy may be used for health services and services related to health services.
- (3) In this section—  
*health services* means services for maintaining, improving or restoring people's health and wellbeing.

#### **316B Health services levy on category 1 licensed premises**

- (1) A category 1 licensee must pay a health services levy to the commissioner each month for the licensee's licensed premises.
- (2) The health services levy 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 health services levy payable by the category 1 licensee is the amount represented by the percentage, prescribed under a regulation, of the monthly taxable metered win for the licensee's licensed premises for the month for which the levy is payable.
- (4) To remove any doubt, it is declared that the health services levy is additional to any gaming machine tax the category 1 licensee is liable to pay for the licensee's licensed premises.

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### **316C Health services fund accounts**

- (1) The health services levies are administered receipts of the department.
- (2) The commissioner must establish and keep accounts to record amounts received as health services levy, called the health services fund accounts.
- (3) To remove any doubt, it is declared that the commissioner's obligations under this section are additional to the commissioner's obligations under the *Financial Accountability Act 2009*.

## **Division 4 Payment of taxes, levies and fees and related matters**

### **317 Payment of taxes etc.**

- (1) Subject to subsections (2) and (3), a licensee must ensure that the commissioner receives on or before the day prescribed for each month an amount not less than the total amount of—
  - (a) the monthly gaming machine tax payable by the licensee; and
  - (b) the monthly health services levy payable by the licensee; and
  - (c) the penalty payable by the licensee under section 319 on or before that day; and
  - (d) the gaming machine tax, health services levy or penalty payable by the licensee and remaining unpaid at the end of the day, prescribed under a regulation, of the preceding month.

Maximum penalty—200 penalty units.

- (2) The commissioner may, by written notice given to a licensee, direct the licensee to pay an amount mentioned in subsection (1) by instalments.
- (3) The licensee must comply with the direction.

Maximum penalty—200 penalty units.

- (4) For the payment of an amount to the commissioner for gaming machine tax, health services levy or penalty under section 319, the licensee must ensure the payment—
  - (a) is identifiable as being for the licensee's licensed premises only; and
  - (b) is exclusive of any payment for any other licensee or purpose.

Maximum penalty—40 penalty units.

- (5) Where a payment to the commissioner that does not comply with subsection (4) is made, the commissioner 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.

### **318 Adjustment of gaming machine tax**

- (1) Subsection (2) applies to a licensee if the gaming machine tax payable by the licensee for a month (the *reference month*) is a negative amount (a *tax credit*).
- (2) In working out the gaming machine tax payable for the month after the reference month (the *first adjustment month*), the tax credit for the reference month is, to the extent possible, to be set off against the gaming machine tax that, apart from this section, would be payable for the first adjustment month.
- (3) Subsection (4) applies if—
  - (a) without applying subsection (2), the gaming machine tax for the first adjustment month is a negative amount; or
  - (b) after applying subsection (2), part of the tax credit (the *tax credit balance*) for the reference month has not been set off against gaming machine tax for the first adjustment month.

- (4) In working out the gaming machine tax payable for the month after the first adjustment month (the *second adjustment month*), the tax credit, or tax credit balance, for the reference month, is, to the extent possible, to be set off against the gaming machine tax that, apart from this subsection, would be payable for the second adjustment month.

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

- (1) If, by the end of the day prescribed of a month (or at the discretion of the commissioner by a time not more than 7 days later than the end of the day prescribed) the amount received by the commissioner under section 317(1) from a licensee is less than the total amount the licensee is, under that subsection, required to ensure is received by the commissioner for that month—
  - (a) the commissioner 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 commissioner, for any reason that the commissioner considers is sufficient, may forgive or refund any penalty payable under this section.

### **320 Forgiven or overpaid money**

If—

- (a) the amount received by the commissioner in any month under section 317(1) is greater than the total amount referred to in section 317(1), the difference; or
- (b) under section 319(3), the commissioner 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—

- (c) taken to be a payment forming part of the payment to be made for the following month under section 317(1) in respect of the licensed premises; or
- (d) at the discretion of the commissioner, forwarded to the licensee, upon written application by the licensee.

### **321 Financial statement of licensed monitoring operator**

- (1) A licensed monitoring operator who supplies basic monitoring services for licensed premises of a licensee must, as required under subsection (2)—
  - (a) give the licensee a financial statement for the premises; or
  - (b) have a financial statement for the premises available in a form capable of being accessed by the licensee.

Maximum penalty—100 penalty units.

- (2) The financial statement for the licensed premises must—
  - (a) be given to, or made available for access by, the licensee as soon as practicable after the end of the assessment period for the premises; and
  - (b) contain the particulars stated by the commissioner in a written notice given to the licensed monitoring operator as the particulars the commissioner considers appropriate for the premises.
- (3) The commissioner may, by written notice given to a licensed monitoring operator, require the licensed monitoring operator to give the commissioner a written explanation about any matter contained in the financial statement.
- (4) The licensed monitoring operator must comply with a requirement under subsection (3), unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

- (5) The licensed monitoring operator must not give the commissioner an explanation the operator knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

- (6) Subsection (5) does not apply to a licensed monitoring operator if the operator, when giving the explanation, informs the commissioner in writing, to the best of the operator's ability, how the explanation is false, misleading or incomplete.
- (7) It is enough for a complaint for an offence against subsection (5) to state that the explanation was false, misleading or incomplete to the defendant's knowledge.

### **322 Payments into consolidated fund**

Payments received by the commissioner for the following must be paid into the consolidated fund—

- (a) gaming machine tax;
- (b) health services levy;
- (c) a penalty imposed under section 319;
- (d) other fees and charges under this Act.

### **323 Adjustment of assessment in certain circumstances**

If the commissioner forms the opinion that an assessment of the monthly taxable metered win for licensed premises or a calculation of gaming machine tax, health services levy or penalty under section 319 for a month is in error, the commissioner 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 commissioner's amended calculation the difference is to be added to; or

(ii) is more than the amount of the commissioner's amended calculation the difference is to be deducted from;

the applicable amount of gaming machine tax, health services levy or penalty under section 319, 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.

### **324 Recovery of taxes, levies and penalties**

(1) Any gaming machine tax, health services levy or penalty payable under section 319 that remains unpaid may be recovered by the commissioner as a debt payable to the State—

(a) by the licensee; or

(b) if the licensee is a body corporate and the licensed premises to which licensee's licence relates are category 1 licensed premises—jointly and severally, by each person who is or was a director of the body corporate when the amount becomes or became payable.

(2) It is a defence in an action to recover an amount mentioned in subsection (1), that is a penalty payable under section 319, from a person mentioned in paragraph (b) of the subsection for the person to prove—

(a) if the person was in a position to influence the conduct of the body corporate in relation to the matter from which the liability to pay the amount arose—the person exercised reasonable diligence to ensure the body corporate did not become liable to pay the amount; or

(b) the person was not in a position to influence the conduct of the body corporate in relation to the matter.

(3) The commissioner, instead of proceeding with or continuing an action under 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.
- (4) This section applies despite the Corporations Act.

### **325 Offences relating to revenue**

A licensee must not wilfully evade the payment, in whole or part, of—

- (a) gaming machine tax or health services levy payable under this part; or
- (b) a penalty payable under section 319.

Maximum penalty—400 penalty units or 2 years imprisonment.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 352, to have also committed the offence.

## **Part 10 Investigation and enforcement**

### **Division 1 Inspectors**

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

##### **325A Appointment and qualifications**

- (1) The commissioner may appoint a person as an inspector.
- (2) However, a person may be appointed as an inspector only if—

- (a) the person is—
  - (i) a public service officer or employee; or
  - (ii) a member of a class of persons prescribed under a regulation; and
- (b) the commissioner is satisfied the person is qualified for the appointment because—
  - (i) the person has the necessary expertise or experience; or
  - (ii) the commissioner considers the person has the ability to quickly acquire the necessary expertise; and
- (c) the commissioner is satisfied the person is a suitable person to be an inspector, having regard to—
  - (i) the person's character; and
  - (ii) the person's current financial position and financial background; and
  - (iii) any other matter the commissioner considers relevant to the person's suitability to be an inspector.

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

### **325B Conditions and limit on powers**

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

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*signed notice* means a notice signed by the commissioner.

### **325C Issue of identity card**

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

### **325D Production or display of identity card**

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

### **325E When inspector ceases to hold office**

- (1) An inspector ceases to hold office if any of the following happens—

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- (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the inspector ceases to hold office;
  - (c) the inspector's resignation under section 325F takes effect.
- (2) Subsection (1) does not limit the ways an inspector may cease to hold office.
- (3) In this section—  
***condition of office*** means a condition on which the inspector holds office.

### **325F Resignation**

An inspector may resign by signed notice given to the commissioner.

### **325G Return of identity card**

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

Maximum penalty—40 penalty units.

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

### **325H Audit program**

- (1) The Minister may approve an audit program for investigating inspectors.
- (2) The commissioner may investigate an inspector under an approved audit program to help the commissioner decide whether the inspector is a suitable person to be an inspector, having regard to—

- 
- (a) the inspector's character; and
  - (b) the inspector's current financial position and financial background; and
  - (c) any other matter the commissioner considers relevant to the person's suitability to be an inspector.
- (3) However, the commissioner may investigate an inspector under subsection (2) only once every 2 years, unless the commissioner reasonably suspects the inspector is not a suitable person to be an inspector having regard to the matters mentioned in subsection (2).
- (4) The commissioner must ensure the investigation is conducted under the approved audit program.
- (5) In this section—
- approved audit program*** means an audit program approved by the Minister under subsection (1).

### **325I Report about criminal history**

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

## **Division 2                      Directions, powers of inspectors etc.**

### **326      Interpretation**

In this division—

*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 equipment; 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, repair or testing of gaming equipment.

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*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, repair or testing of gaming equipment; or
- (c) the administration of licensed premises.

### **327 Directions**

- (1) The commissioner may, by written notice, give directions to—
  - (a) a licensee about the conduct of gaming or the administration of the licensee’s licensed premises; or
  - (b) a licensed monitoring operator about the conduct of gaming or supplying basic monitoring services to a licensee; or
  - (c) a licensed major dealer or licensed secondary dealer about the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (d) a licensed testing facility operator about the testing of gaming equipment; or
  - (e) a licensed service contractor or licensed repairer about the installation, alteration, adjustment, maintenance or repair of gaming equipment; or
  - (f) any other person who holds a licence or authority under this Act about the conduct of gaming.
- (2) A person to whom a notice is given must comply with the directions of the commissioner under subsection (1).

Maximum penalty—200 penalty units.

- (3) If a person who has been convicted of an offence of failing to comply with directions given under subsection (1), continues

to fail to so comply, the person commits an offence against this Act.

Maximum penalty for subsection (3)—20 penalty units for each day on which the failure continues.

### **328 Stop directions**

- (1) This section applies if an inspector reasonably believes—
  - (a) a thing used for gaming, or in the conduct of gaming, is unsatisfactory for the purpose for which it is used; and
  - (b) the continued use of the thing may—
    - (i) jeopardise the integrity of gaming or the conduct of gaming; or
    - (ii) adversely affect the public interest.
- (2) The inspector may direct the person who has, or reasonably appears to have, authority to exercise control over the thing to stop using the thing, or allowing the thing to be used, for gaming or in the conduct of gaming.
- (3) A direction under subsection (2) (a *stop direction*) may be given orally or by written notice (a *stop notice*).
- (4) However, if the direction is given orally, it must be confirmed by written notice (also a *stop notice*) given to the person as soon as practicable.
- (5) A stop direction may be given for a thing at or on licensed premises.
- (6) A stop direction does not apply to a use of the thing carried out for repairing or testing the thing.
- (7) A stop notice must state—
  - (a) the grounds on which the inspector believes the thing is unsatisfactory; and
  - (b) the circumstances (if any) under which the stop direction may be cancelled.

- (8) A person to whom a stop direction is given must comply with the direction.

Maximum penalty for subsection (8)—40 penalty units.

### **329 General powers of inspectors**

- (1) An inspector, who believes, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act may, subject to subsections (2) and (4) 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, tested 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, repair or testing 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 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 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 commissioner—
  - (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 State, and do anything that is necessary and

reasonable to effect the taking possession, or removal, of the equipment or property; and

- (1) 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 daytime or night-time but otherwise such entry and inspection must be made at all reasonable times during the daytime.
- (3) An inspector, who believes, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act, may—
  - (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 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, repair or testing 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 to—
  - (i) gaming; or
  - (ii) the conduct of gaming; or
  - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance, repair or testing of gaming equipment; or
  - (iv) the administration of licensed premises;and advise the person of 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) ask a person the inspector thinks can help the inspector in the exercise of the inspector's powers or the

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- 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) 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.
- (5) For the purposes of subsections (6) to (8), premises used as a dwelling house do not include the curtilage of those premises.
- (6) 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.

- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) Nothing in this section authorises an inspector to seize and confiscate a digital device if—

- (a) the inspector reasonably believes a person has committed an offence mentioned in section 255 or 256; and
- (b) in committing the offence the person used the device to display the following things, or an image or other design purporting to be the thing—
  - (i) a digital authority;
  - (ii) a digital evidence of age;
  - (iii) a digital evidence of identity.

### **330 Offences relating to inspectors**

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
  - (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 329(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, repair or testing 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 329(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 329(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—
  - (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.

### **331 Forfeiture of things that have been seized**

- (1) An article, record or other thing seized under section 329(1)(f) or (3)(c) is forfeited to the State if the inspector who seized the thing—
  - (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts; or
  - (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.

*Note—*

Section 359 also deals with forfeiture.

- (2) In applying subsection (1)—
  - (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

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- (3) If the inspector makes a decision under subsection (1)(c), the inspector must immediately give the owner an information notice for the decision.
- (4) Subsection (3) does not apply if—
  - (a) the inspector can not find the owner, after making reasonable inquiries; or
  - (b) it is impracticable or would be unreasonable to give the notice.
- (5) Regard must be had to the nature, condition and value of an article or other thing (other than a record)—
  - (a) in deciding—
    - (i) whether it is reasonable to make inquiries or efforts for this section; and
    - (ii) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable; or
  - (b) in deciding whether it would be unreasonable to give notice about the article or other thing.

### **332 Return of things that have been seized**

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

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

- (1) Until an article, record or other thing that has been seized is forfeited or returned, an inspector must allow its owner—
  - (a) to inspect it; and
  - (b) for a record or another thing that is a document—to copy it.
- (2) Also, until a record or another document that has been seized is forfeited or returned, an inspector must, at the request of the owner of the record or other document, give the owner a correct copy of the record or other document.
- (3) A copy of a record or another document given to a person under subsection (2) certified by an 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 record or other document.
- (4) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

**334 Dealing with forfeited things**

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the commissioner as the commissioner considers appropriate.
- (2) Without limiting subsection (1), the commissioner may destroy or otherwise dispose of the thing.
- (3) Despite subsection (1), the commissioner must not deal with the thing in a way that could prejudice the outcome of an appeal under this Act of which the commissioner is aware.
- (4) The forfeiture of a thing, or the dealing with a thing under this section, does not confer a right to compensation on any person.

**335 Minister may order inquiry**

- (1) The Minister may, if the Minister thinks fit, nominate and appoint in writing the 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, repair or testing of gaming equipment; or
  - (d) the administration of licensed premises.
- (2) In the holding of the inquiry the 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 27 to 32 of that Act.
- (3) Nothing contained in this section affects any other powers that the 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.

**336 Review and termination of agreements**

- (1) A holder of a licence under this Act, if directed by the commissioner to do so, must furnish to the commissioner within the time stipulated in the direction such information or material as the commissioner thinks fit with respect to any lease, agreement or arrangement (*the agreement*) that the holder has with any other person relating to the conduct of the business of the holder.

Maximum penalty—200 penalty units.

- (2) Without limiting subsection (1), matters concerning which the commissioner may direct the furnishing of information or material include—

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- (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 holder of a licence under this Act, if directed by the commissioner to do so, must furnish to the commissioner within the time stipulated in the direction a copy of the agreement (if it is in writing).

Maximum penalty—200 penalty units.

- (4) If the commissioner, 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 commissioner considers is relevant) that the continuation of the agreement—
- (a) is not in the public interest; or
  - (b) jeopardises the integrity of—
    - (i) gaming; or
    - (ii) the conduct of gaming; or
    - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance, repair or testing of gaming equipment;

the commissioner may issue to 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 holder of a licence under this Act to whom notice under subsection (4) is issued may give a written answer to the

commissioner 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 commissioner as the party thinks fit at any time not later than that stipulated date.
- (9) The commissioner is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (8) and, if the commissioner considers that—
  - (a) satisfactory answers are given or submissions made in reply to or in respect of the notice—the commissioner 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 commissioner may direct the termination of the agreement.
- (10) If a delegate of the commissioner exercises the commissioner's power under subsection (9), the power to direct termination of the agreement under subsection (9)(b) may be exercised only by the commissioner on the recommendation of the delegate.
- (11) The commissioner's direction under subsection (9)(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.
- (12) 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.
- (13) 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.
- (14) No liability for breach of the agreement attaches to any party to the agreement because of its termination by force of this Act.

**337 Financial institution may be required to furnish particulars**

- (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.

- (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 commissioner, make a requirement under subsection (1).

**Part 11 General**

**338 Certain persons not to play gaming machines**

- (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.

- (2) A person who is a licensee or gaming employee must not play gaming machines installed on the licensed premises of which the person is the licensee, or for which the person is employed to carry out gaming duties as a gaming employee—
  - (a) during the period the person is the licensee of, or a gaming employee for, the licensed premises, except to the extent it is necessary for carrying out duties as the licensee or a gaming employee; and

- (b) for 30 days after the person ceases to be the licensee of, or a gaming employee for, the licensed premises.

Maximum penalty—40 penalty units.

- (3) 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 monitoring operator for whom the employee is a licensed key monitoring employee.

Maximum penalty—40 penalty units.

- (4) 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 monitoring operator for whom the person was a licensed key monitoring employee when the person became a former employee.

Maximum penalty—40 penalty units.

- (5) Where winnings become payable because of playing a machine as authorised by this section, those winnings remain the property of—

(a) if the gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval; or

(b) otherwise—the licensee.

- (5A) Subsection (5) applies to winnings whether the winnings are attributable to obtaining a winning result, promotions or something else.

- (6) In this section—

*former employee* means a person who was a licensed key monitoring employee.

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**339 Restricted officials prohibited from playing gaming machines**

- (1) The commissioner may direct an inspector or departmental officer not to play authorised gaming machines of a licensee.
- (2) A direction under subsection (1)—
  - (a) must be given by written notice given to the inspector or departmental officer; and
  - (b) may be given only if the commissioner considers it appropriate to give the direction in the public interest; and
  - (c) may be given on conditions the commissioner considers appropriate.
- (3) A restricted official must not, except to the extent that is necessary for carrying out the official's functions as an inspector or departmental officer, play an authorised gaming machine of a licensee in contravention of a direction given to the official by the commissioner under this section.

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

**340 Prohibition on control of applications by category 2 licensees**

A person must not have or gain—

- (a) control over, or the ability to control, an application or the content of an application by a category 2 licensee under part 3, whether or not the licensee makes an application under the part; or
- (b) the ability to interpose between a category 2 licensee and the commissioner in respect to an application made by the licensee under part 3;

unless the person is the secretary, an executive officer or a member of the licensee carrying out the duties or exercising the normal rights that person has as such secretary, executive officer or member.

Maximum penalty—200 penalty units.

**341 Prohibition on control of gaming at category 2 licensed premises**

- (1) A person who is not an approved person for category 2 licensed premises must not—
  - (a) have, or gain, control over the conduct of gaming at the premises; or
  - (b) have, or gain, the ability to control the conduct of gaming at the premises.

Maximum penalty—200 penalty units.

- (2) For subsection (1), a person has or gains control over, or has or gains the ability to control, the conduct of gaming if the person—
  - (a) has or gains the capacity to dominate, directly or indirectly, decision-making about policies for the conduct of the gaming; or
  - (b) has or gains the capacity to enjoy the majority of the benefits, and to be exposed to the majority of the risks, associated with the conduct of the gaming.

- (3) In this section—

*approved person*, for category 2 licensed premises, means the secretary, an executive officer, or a member, of the licensee of the premises performing functions or exercising powers or rights as the secretary, an executive officer or a member, of the licensee.

**341A Restriction on membership of management committee or board**

- (1) This section applies to each of the following persons—
  - (a) a lessor of a category 2 licensee's licensed premises;
  - (b) a person who is a creditor of a category 2 licensee;
  - (c) a person who—

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- (i) has entered into an agreement or an arrangement with a category 2 licensee about the management of the licensee's business or operations; or
  - (ii) is responsible for the day to day management of the operation of a category 2 licensee's licensed premises;
  - (d) a person who is an associate of a person mentioned in paragraph (a), (b) or (c).
- (2) The person must not hold office as a member of the category 2 licensee's management committee or board, unless—
- (a) the person is nominated or otherwise chosen as a member of the licensee's management committee or board, under the category 2 licensee's relevant rules, by a related entity of the licensee; or
  - (b) the commissioner authorises the person to be a member of the management committee or board.

Maximum penalty—200 penalty units.

- (3) The commissioner must not authorise the person to be a member of the category 2 licensee's management committee or board unless—
- (a) the licensee asks the commissioner to give the authorisation; and
  - (b) the commissioner considers it is in the best interests of the licensee to give the authorisation.
- (4) The commissioner must, as soon as practicable after giving an authorisation for subsection (2)(b), give and maintain notice of the authorisation on the department's website.

- (5) In this section—

***related entity***, of a category 2 licensee, means a voluntary association of persons from which the licensee was formed.

***relevant rules***, of a category 2 licensee, means the memorandum and articles of association, rules, constitution or other incorporating documents of the licensee.

**342 Restriction on certain agreements**

- (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.
- (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 commissioner, where the commissioner 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 commissioner considers appropriate.
- (5) Any exemption under subsection (4) may, at any time, be revoked by the commissioner.
- (6) This section does not apply to an agreement entered into between a licensee and a licensed monitoring operator for electronically monitoring the licensee's gaming machines in conjunction with the supply of services relating to the installation or operation of a linked jackpot arrangement on the licensee's licensed premises.

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**343 Exemption of devices etc.**

- (1) The commissioner 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 commissioner 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 commissioner.

**344 Approvals and authorities under this Act**

- (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 Minister or the commissioner, that approval or authorisation may be granted by the Minister or the commissioner 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 287(5), a person must not fail to comply with any condition to which an approval or authorisation is subject.  
Maximum penalty—200 penalty units.
- (4) A person must not—
  - (a) modify anything subject to an approval or authorisation from; or

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- (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 for subsection (4)—200 penalty units.

### **346 Bribery of gaming officials**

- (1) Any gaming official who corruptly asks for, receives, or obtains or agrees to receive or obtain any money, property or benefit of any kind for the official or any other person—
  - (a) so that the official will forego or neglect functions under this Act or in order to influence the official 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 official in the performance of functions under this Act; or
  - (c) for the official to use or take advantage of the official's position improperly to gain any benefit or advantage for or facilitate the commission of an offence against this Act by another person;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

- (2) Any person who corruptly gives, confers or procures or promises or offers to give, confer or procure to, upon or for any gaming official or any other person any money, property or benefit of any kind—
  - (a) so that the official will forego or neglect functions under this Act or in order to influence the official 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

official in the performance of functions under this Act;  
or

- (c) for the official to use or take advantage of the official's position improperly to gain any benefit or advantage for or facilitate the commission of an offence against this Act by the first person or any other person;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

- (3) In this section—

*gaming official* means—

- (a) the commissioner; or
- (b) a departmental officer; or
- (c) an inspector.

### **347 Financial connections and interests of restricted officials**

- (1) A restricted official—

- (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 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 holder of a licence under this Act.

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

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- (2) A person who was a restricted official must not, for 1 year after ceasing to be a restricted official, without the commissioner's approval—
- (a) accept or solicit employment from a holder of a licence under this Act; or
  - (b) be an employee in any capacity of a holder of a licence under this Act; or
  - (c) knowingly have, directly or indirectly—
    - (i) a business or financial association with a holder of a licence under this Act; or
    - (ii) a business or financial interest in something together with a holder of a licence under this Act.

Maximum penalty—200 penalty units.

- (3) 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;  
a restricted official; or
  - (b) must not employ in any capacity a restricted official; or
  - (c) must not, without the approval of the commissioner, employ in any capacity or have a business or financial connection with a person who was a restricted official within a period of 1 year after that person ceases to be a restricted official.

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

- (4) A restricted official 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;

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a person who becomes 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 licensed or an applicant—

- (c) notify the commissioner of such connection or interest; and
- (d) if directed by the commissioner, terminate the connection or relinquish the interest within a time specified by the commissioner.

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

- (5) This section does not apply so as to prohibit a restricted official—
  - (a) from being a financial member of a category 2 licensee, or having another financial connection with a category 2 licensee of a kind that members of the licensee generally have; 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, repair or testing of gaming equipment) with a holder of a licence under this Act such as is generally had by members of the public.
- (6) A restricted official must, immediately after applying for membership of a category 2 licensee, or of a club that is an applicant for a gaming machine licence, notify the commissioner of the making of the application.
- (7) In subsections (4), (5) and (6)—

*restricted official* includes a person who has ceased to be a restricted official if less than 1 year has elapsed since the person ceased to be a restricted official.

**348 Reporting of accounting discrepancies and criminal activity**

- (1) A licensee or gaming employee 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 commissioner in writing of all facts known to the licensee or gaming employee 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, gaming employee or other person because the licensee or gaming employee has advised, or may advise, the commissioner under subsection (1) commits an offence against this Act.

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

**349 Cheating**

- (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.

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- (2) A licensee 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 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 gaming employee 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 do the following on behalf of the licensee—
    - (i) sell or redeem gaming tokens;
    - (ii) carry out centralised credit system transactions;
    - (iii) carry out TITO system transactions.
- (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.

### **350 Forgery and like offences**

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 departmental officer; 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, affidavit, or report on the testing of gaming equipment made under this Act;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

### **351 Liability for offences by servants, agents or employees**

- (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.

**352 Executive officer may be taken to have committed offence against s 325**

- (1) If a body corporate commits an offence against section 325, each executive officer of the body corporate is taken to have also committed the offence if—
  - (a) the officer authorised or permitted the body corporate's conduct constituting the offence; or
  - (b) the officer was, directly or indirectly, knowingly concerned in the body corporate's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against section 325 whether or not

the body corporate has been proceeded against for, or convicted of, the offence.

- (3) This section does not affect either of the following—
- (a) the liability of the body corporate for the offence against section 325;
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the body corporate, for the offence against section 325.

### **353 Claims of privilege in proceedings for offences**

- (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.

### **354 Protection of officers etc.**

No liability is incurred by the Crown, the Minister, the commissioner, the chief executive, the police commissioner, any inspector, any departmental officer, 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.

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**355 Attempt to commit offence**

- (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.

**356 Proceedings for offences**

- (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 the later of the following periods to end—
  - (a) within 1 year from the time when the matter of complaint arose;
  - (b) within 6 months after the matter of complaint comes to the knowledge of the commissioner, but within 5 years after the offence is committed.
- (3) A serious offence may be prosecuted in a summary way under the *Justices Act 1886* or upon indictment.
- (4) Where proceedings for a serious offence 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 a serious offence is, and has effect in law as, a conviction for an indictable offence.
- (8) In this section—  
*serious offence* means an offence against section 102, 227(1), 265(1) or (2), 267(3), 268(2), 271(2), 286(1) or (2), 287(8), 290(1) or (2), 291(1), (3) or (4), 292(1), 294(1) or (3), 325, 346, 349 or 350.

### **357 Starting proceedings**

Without limiting the way in which a proceeding for an offence against this Act may be started, a proceeding for an offence may be started by the commissioner or another person authorised by the commissioner to start the proceeding in a particular case.

### **358 Warrant and arrest of person offending against Act**

Upon complaint on oath made before any justice by any person authorised in writing by the commissioner 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

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named in the warrant to be arrested and brought as soon as possible before a court to be dealt with according to law.

### **359 Forfeiture on order of court**

- (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—
  - (a) anything used to commit the offence; or
  - (b) anything else the subject of the offence.
- (2) The court may make the order—
  - (a) whether or not the thing has been seized; and
  - (b) if the thing has been seized—whether or not the thing has been returned to its owner.
- (3) If a person charged with an offence against this Act is not convicted of any offence, the court may order the forfeiture to the State of anything that—
  - (a) was found in the possession or under the control of the person; and
  - (b) was seized under section 329(1)(f) or (3)(c); and
  - (c) was not returned to the person under section 332.
- (4) The court may make any order to enforce a forfeiture under this section it considers appropriate.
- (5) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **360 Service of notices, documents etc.**

- (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.

### **361 Evidentiary provisions**

In proceedings under this Act—

- (a) it is not necessary to prove the appointment of the Minister, the commissioner, the chief executive, any police officer, any inspector or any departmental officer; 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 360(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
- (d) a certificate purporting to be signed by the commissioner stating that at a stated time, or during a stated period, a licence, approval, authorisation or exemption was, or was not, in force under this Act is evidence of the matter stated.

### **362 Disclosure of criminal history**

A person who—

- (a) is the subject of an investigation under section 49; or
- (b) is an applicant for a licence under part 3 or 5; or
- (c) is the secretary or an executive officer of a body corporate that is an applicant for a licence under part 3, 4 or 5; or
- (d) is required to submit information or material, or additional information or material, under section 49(4), 57(2), 58(1), 93(2), 200(2), 201(2) or 213(1);

must, if so required for the purposes of this Act, disclose the person's criminal history.

Maximum penalty—200 penalty units.

### **363 Refund of amounts in certain circumstances**

The commissioner may—

- (a) refund amounts paid to the commissioner in error; and
- (b) refund a fee paid relative to an application under this Act where—
  - (i) in the opinion of the commissioner no substantial expense has been incurred by the commissioner in regard to such application; and

- (ii) the applicant, or other person acceptable to the commissioner, makes a written request for the application not to proceed.

**364 Approval of forms**

The commissioner may approve forms for use under this Act.

**365 Alternatives to forms**

- (1) The commissioner 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 commissioner.
- (2) Where under subsection (1) the commissioner 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.

**366 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be about the following—
  - (a) arrangements and procedures for the taking of fingerprints of an individual who is an applicant for a gaming machine, service contractor's, repairer's, gaming nominee's or key monitoring employee's licence;
  - (b) the activities of holders of licences under this Act;
  - (c) the control of the premises of licensed repairers or licensed service contractors;

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- (d) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of gaming equipment and restricted components;
  - (e) 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;
  - (f) the restrictions or entitlements which apply to different categories of licensed premises;
  - (g) dividing the State into regions for the purpose of allocating or selling operating authorities;
  - (h) 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;
  - (i) 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;
  - (j) matters to enable the proper conduct of gaming;
  - (k) establishing a float for use in financial transactions relating to gaming and the conduct of gaming, and maintaining and using the float;
  - (l) provision of signs and notices in licensed premises;
  - (m) the control of advertising or promotions by any licensee, licensed major dealer or other person in relation to gaming machines, gaming and the conduct of gaming;
  - (n) applications and fees with respect to the approval of electronic monitoring and centralised credit systems;
  - (o) the keeping of accounts with financial institutions by licensees;
  - (p) supplying gaming equipment;
  - (q) identification of gaming employees and licensed gaming nominees;

- (r) the maximum denomination of currency that may be inserted in a note acceptor on licensed premises.
- (3) A regulation may impose a penalty of no more than 20 penalty units for contravention of a regulation.

## **Part 11A                    Alleviating financial burden                                   caused by COVID-19                                   emergency**

### **367     Purpose of part**

The purpose of this part is to provide for the payment of gaming taxes to be deferred or waived to alleviate the financial burden caused by the COVID-19 emergency on gaming operators.

### **367A   Definitions for part**

In this part—

**COVID-19 emergency** see the *COVID-19 Emergency Response Act 2020*, schedule 1.

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

- (a) this Act;
- (b) the *Casino Control Act 1982*;
- (c) the *Keno Act 1996*;
- (d) the *Lotteries Act 1997*.

**gaming operator** means a person who is liable to pay a gaming tax under a gaming Act.

**gaming tax**—

- (a) means any of the following—
  - (i) a gaming machine tax under section 312;
  - (ii) a health services levy under section 316B;

- (iii) a casino tax under the *Casino Control Act 1982*, section 51;
  - (iv) a keno tax under the *Keno Act 1996*, section 109;
  - (v) a lottery tax under the *Lotteries Act 1997*, section 94; and
- (b) includes part of a tax or levy mentioned in paragraph (a).

***gaming tax notice*** see section 367C(1).

***relevant month*** means each month—

- (a) from and including March 2020; and
- (b) until and including December 2020.

### **367B Application of part**

This part, and any notice made under this part, applies despite—

- (a) another provision of this Act; and
- (b) another gaming Act.

### **367C Deferral or waiver of payment of gaming taxes**

- (1) The Minister may, by notice (a ***gaming tax notice***), defer for a stated period, or waive, payment of a gaming tax payable for a relevant month.
- (2) The Minister may defer or waive payment of a gaming tax under subsection (1) only—
  - (a) if the Minister is satisfied the deferral or waiver is necessary to alleviate the financial burden caused by the COVID-19 emergency on gaming operators; and
  - (b) with the approval of the Treasurer.
- (3) The power to defer or waive payment of a gaming tax under subsection (1) includes the power to do any of the following—

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- (a) if the gaming tax, for which payment has been deferred or waived, has been paid—refund the gaming tax;
  - (b) if payment of the gaming tax is deferred—decide terms for the payment of the gaming tax, including, for example—
    - (i) when the deferred gaming tax must be paid; and
    - (ii) that the gaming tax may be paid in instalments; and
    - (iii) that instalments of the gaming tax must be paid on the terms decided by the commissioner;
  - (c) provide for another matter relating to the operation of a gaming Act in relation to the deferral or waiver.
- (4) Without limiting subsection (3)(b), a gaming tax notice must require a gaming tax for which payment is deferred to be paid by a day not later than 30 June 2021.

### **367D Obligation to pay deferred gaming tax**

- (1) This section applies if a gaming tax notice defers payment of a gaming tax payable for a relevant month (a *deferred gaming tax*).
- (2) A gaming operator must pay the deferred gaming tax for the relevant month to the chief executive in accordance with the gaming tax notice.
- (3) A provision of a gaming Act that applies to the payment of the deferred gaming tax, or the recovery of an amount of the deferred gaming tax that is payable, applies as if a reference in the provision to when the deferred gaming tax is payable were a reference to when the deferred gaming tax is payable under subsection (1).
- (4) The commissioner must withdraw any action to enforce the payment of the deferred gaming tax started before the gaming tax notice was made.

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### **367E Gaming tax notices**

- (1) A gaming tax notice—
  - (a) is subordinate legislation; and
  - (b) has effect despite a gaming Act; and
  - (c) may have retrospective operation to a day not earlier than 1 March 2020.
- (2) The *Statutory Instruments Act 1992*, section 49(1) applies to the tabling of a notice as if the reference to 14 sitting days were a reference to 14 days.
- (3) A gaming tax notice expires on 31 December 2020.

### **367F Expiry of part**

This part expires on 31 December 2020.

## **Part 12 Transitionals**

### **Division 1 Provisions for Gaming Machine Amendment Act 1997**

#### **368 Chief executive to supply gaming machines etc. until there is a licensed operator**

- (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 86, the chief executive must supply to a licensee the number or increased number of gaming machines decided under section 57(12) or 81(5) as in force at the commencement of this section.
- (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.

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- (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.

**369 Gaming machine tax for June 1997**

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.

**370 Recovery of certain amounts outstanding at 30 June 1997**

- (1) Section 324, 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 324, 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).

**371 Payment of certain amounts received after 30 June 1997**

Despite section 322—

- (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.

### **372 Inspectors and officers of the division**

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.

## **Division 2 Provisions for Gaming Machine and Other Legislation Amendment Act 1999**

### **373 Definitions**

In this division—

*application period* means the period of 2 months starting on the commencement day.

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

*existing control system*, for an existing operator, means the system of internal controls and administrative and accounting procedures used, immediately before the commencement day, by the operator for the operator's monitoring operations.

*existing operator* means a person who—

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- (a) immediately before the commencement day was a licensed operator; and
- (b) on the commencement day is a licensed operator.

**part 4 licence** means any of the following licences—

- repairer’s licence
- service contractor’s licence
- gaming employee’s licence
- key monitoring employee’s licence.

**submission period** means the period of 1 month starting on the commencement day.

**unresolved nominee’s application**, for a licensee’s licensed premises, means an application for a gaming nominee’s licence that—

- (a) is made (whether under section 196 or 198) in the application period; and
- (b) is made by a person who, for the application, is nominated by the licensee to be the licensee’s nominee for the premises; and
- (c) is not decided before the end of the application period.

### **374 Term of gaming machine licences**

- (1) Section 72, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a gaming machine licence issued on or after the commencement day.
- (2) Section 72, as in force immediately before the commencement day, continues to apply to a gaming machine licence issued before, and in force on, the commencement day.

**375 Approved control systems for existing operators**

An existing operator's existing control system is, with any necessary modifications, taken to be the operator's approved control system until—

- (a) if paragraph (b) does not apply—the end of the submission period; or
- (b) if, during the submission period, the existing operator makes a control system submission to the chief executive—the chief executive makes a decision under section 166 approving, or refusing to approve, the control system to which the submission relates.

**376 Nominees of licensees**

Section 195 does not apply to a licensee for licensed premises of the licensee—

- (a) until the end of the application period; or
- (b) if, at the end of the application period, there is an unresolved nominee's application for the premises—until the application is decided.

**377 Application for gaming nominees' licences**

- (1) This section applies if, in the application period, an application for a gaming nominee's licence is made by a licensed gaming employee under section 196.
- (2) The application is taken to be accompanied by the prescribed fee for the application if it is accompanied by a fee for an amount equal to the prescribed fee less the discount amount.
- (3) In this section—

*discount amount* means the amount calculated using the formula—

$$\frac{\mathbf{M} \times \mathbf{PF}}{\mathbf{60}}$$

where—

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**M** means the number of whole months remaining in the unexpired period of the applicant's gaming employee's licence;

**PF** means the prescribed fee.

**378 Applications for machine managers' licences**

- (1) This section applies if an application for a machine manager's licence was made, but not decided or withdrawn, before the commencement day.
- (2) The application is taken to be an application for a gaming employee's licence.

**379 Machine managers' licences**

A machine manager's licence in force immediately before the commencement day is taken to be a gaming employee's licence until—

- (a) the term for which the licence was issued, or renewed or last renewed, expires; or
- (b) the licence otherwise ceases to be in force.

**380 Licensed machine managers**

A person who, immediately before the commencement day, was a licensed machine manager is taken to be a licensed gaming employee until—

- (a) the term for which the person's licence was issued, or renewed or last renewed, expires; or
- (b) the person's licence otherwise ceases to be in force.

**381 Term of part 5 licences**

- (1) Section 204, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a part 5 licence issued on or after the commencement day.

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- (2) Section 204, as in force immediately before the commencement day, continues to apply to a part 5 licence issued before, and in force on, the commencement day.

**382 Continuation of certain agreements for stated period**

- (1) This section applies despite the amendment of section 342(6) by the *Gaming Machine and Other Legislation Amendment Act 1999*, section 113 (the *amending provision*).
- (2) Section 342(6), as in force immediately before the commencement of the amending provision, continues to apply to an agreement of a kind mentioned in the subsection if—
- (a) the agreement was entered into before 20 November 1998; and
  - (b) the person with whom the licensed operator entered into the agreement is, and, at the time the agreement was entered into, was, a licensee; and
  - (c) the premises to which the agreement relates are, and, at the time the agreement was entered into, were, licensed premises of the licensee.
- (3) However, subsection (2) applies only for—
- (a) if the agreement's initial term is not longer than 5 years—the agreement's initial term; or
  - (b) if the agreement's initial term is longer than 5 years—the period of 5 years starting on the day the agreement's initial term started.
- (4) Also, subsection (2) applies to the agreement only for the licensed premises to which the agreement related at the time the agreement was entered into.

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

**383**      **Definitions**

In this division—

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

*listed manufacturer* means a person who, immediately before the commencement day, was listed on the roll of recognised manufacturers and suppliers of gaming machines maintained under section 130 as in force immediately before the commencement day.

*listed supplier* means a person who, immediately before the commencement day, was listed on the roll of recognised suppliers of restricted components maintained under section 130 as in force immediately before the commencement day.

**385**      **Existing inspectors**

A person who, immediately before the commencement day, was an inspector continues as an inspector on and from the commencement day.

**386**      **Existing additional employees**

- (1) This section applies to a person who, immediately before the commencement day, was a person to whom section 40 applied.
- (2) From the commencement day—
  - (a) the person continues to be employed under this Act; and
  - (b) the terms that apply to the person for the person's employment are the same terms that applied to the person immediately before the commencement day.

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**387 Certain listed manufacturers taken to be licensed major dealers**

- (1) This section applies to a listed manufacturer if—
  - (a) before the commencement day, the chief executive approved a gaming machine type or game under section 281 submitted to the chief executive for evaluation by the listed manufacturer; and
  - (b) the approval was in force immediately before the commencement day.
- (2) On the commencement day, the listed manufacturer is taken to be a licensed major dealer.
- (3) On, or as soon as practicable after the commencement day, the chief executive must issue a major dealer's licence to the listed manufacturer.

**388 Listed suppliers taken to be licensed secondary dealers**

- (1) On the commencement day, a listed supplier is taken to be a licensed secondary dealer.
- (2) On, or as soon as practicable after the commencement day, the chief executive must issue a secondary dealer's licence to a listed supplier.

**390 Continuation of directions prohibiting the playing of gaming machines**

A direction given to a person under section 339 before the commencement of this section and in force immediately before the commencement continues to have effect in relation to the person, after the commencement, as if the direction were given to the person under section 339 as in force immediately after the commencement.

**391 Consideration of social and community issues for existing applications**

Applications for gaming machine licences for which section 55(2) has effect include applications made before the commencement of the subsection that, at the commencement, are still to be decided by the commission.

**Division 4 Provisions for Gambling Legislation Amendment Act 2000**

**392 Certain gaming machine licences to lapse**

- (1) This section applies to a gaming machine licence granted before 13 December 1999.
- (2) If the licensee under a gaming machine licence to which this section applies has not started to conduct gaming on the licensed premises by the relevant date, the gaming machine licence lapses.
- (3) If the licensee under a gaming machine licence to which this section applies has started to conduct gaming on the licensed premises by the relevant date but the full number of gaming machines approved for the licensed premises have not been installed, the number of gaming machines approved for the licensed premises is (subject to an increase or decrease on application under this Act) taken to be the number installed on that date.
- (4) The commission may fix a date falling after 13 December 2000 as the relevant date for particular licensed premises if—
  - (a) the licensee—
    - (i) applies in writing to the commission before 13 December 2000 for deferment of the relevant date; and
    - (ii) provides the commission with information and materials for which it reasonably asks to help it decide the application; and

- (b) the commission is, after considering the application and any supporting information and materials, satisfied there is good reason to allow a deferment of the date for the licensed premises.

*Example of good reasons to allow a deferment—*

The commission might consider the fact that licensed premises are under construction and the construction work is substantially complete or has been delayed for reasons outside the licensee's control are good reasons for deferment of the relevant date.

- (5) The commission may grant a deferment of the relevant date on conditions the commission considers appropriate and, if a condition is not complied with, the deferment does not operate beyond the date of the noncompliance.

- (6) In this section—

*relevant date* means—

- (a) 13 December 2000; or
- (b) for premises for which the commission has fixed a later date under subsection (4)—the date fixed by the commission or an earlier date on which the deferment ceases to operate under subsection (5).

### **393 Certain approvals to lapse**

- (1) This section applies to an approval given by the commission before 28 July 1999 for an increase in the number of gaming machines installed on licensed premises.
- (2) If, by the relevant date, no additional gaming machines have been installed under an approval to which this section applies, the approval lapses.
- (3) If, by the relevant date, some but not all the additional gaming machines approved under an approval to which this section applies have been installed, the approval is taken to be an approval for an increase in the number of gaming machines to the number installed by that date and to authorise the installation of no further gaming machines.

- (4) The commission may fix a date falling after 13 December 2000 as the relevant date for particular licensed premises if—
- (a) the licensee—
    - (i) applies in writing to the commission before 13 December 2000 for deferment of the relevant date; and
    - (ii) provides the commission with information and materials for which it reasonably asks to help it decide the application; and
  - (b) the commission is, after considering the application and any supporting information and materials, satisfied there is good reason to allow a deferment of the date for the licensed premises.

*Example of good reasons to allow a deferment—*

The commission might consider the fact that licensed premises are subject to major renovations or a major extension and the work is substantially complete or has been delayed for reasons outside the licensee's control are good reasons for deferment of the relevant date.

- (5) The commission may grant a deferment of the relevant date on conditions the commission considers appropriate and, if a condition is not complied with, the deferment does not operate beyond the date of the noncompliance.
- (6) In this section—
- relevant date*** means—
- (a) 13 December 2000; or
  - (b) for premises for which the commission has fixed a later date under subsection (4)—the date fixed by the commission or an earlier date on which the deferment ceases to operate under subsection (5).

### **394 Hours of gaming for existing licences**

- (1) This section applies to a gaming machine licence granted before 1 December 2000.

- (2) It is to be presumed that, on 1 December 2000, hours of gaming were fixed for the licensed premises to which the licence relates that are the same as the hours during which liquor is permitted, under the liquor licence relating to the premises, to be consumed in the licensed premises.

**395 Closure of charities and rehabilitation benefit fund**

- (1) On the commencement, the charities and rehabilitation benefit fund is closed.
- (2) On the closure of the fund, it ceases to exist and all public moneys standing to the credit of the fund immediately before the commencement are controlled receipts of the families department.
- (3) Despite the closure of the fund, entries may be made in the accounts for the fund for transactions completed before the commencement.
- (4) In this section—

*commencement* means the commencement of this section.

*controlled receipt* see *Financial Administration and Audit Act 1977*, section 4(2).

*families department* means the department within which the fund was administered immediately before the commencement.

*public moneys* see *Financial Administration and Audit Act 1977*, schedule 3.

**396 Saving of appointments of members of Gaming Machine Community Benefit Committee**

- (1) This section applies to the gaming machine community benefit committee established immediately before the commencement of this section (the *previous committee*).
- (2) The previous committee continues in existence as the gambling community benefit committee (the *new committee*)

and each member of the previous committee is taken to properly hold office as a member of the new committee.

- (3) Subject to the Act, the term of the person's appointment is the balance of the term for which the person held office immediately before the commencement.

### **397 Applications of significant community impact**

- (1) Subject to this section, sections 55B to 55E do not apply to a relevant application.
- (2) However, the chief executive may, by written notice given to the applicant, require the applicant to give the chief executive a community impact statement and a statement of responsible gambling initiatives within the reasonable time, not less than 30 days, stated in the notice.
- (3) If the applicant is required to give a community impact statement and a statement of responsible gambling initiatives, section 55B(2) to (5) applies to the statements and the preparation of the statements.
- (4) If the applicant does not comply with the notice, the applicant is taken to have withdrawn the relevant application.
- (5) Subsection (6) applies if a member of the public, individually or as a member of a group, has commented or comments on the relevant application, by writing, given to the chief executive before the commission decides the application.
- (6) The comments are taken to be relevant community comments on the application.
- (7) However, the commission may disregard comments on subjects that lie beyond a scope indicated in a relevant guideline issued by the commission under section 17.
- (8) In this section—

*member of the public* see section 55D(4).

*relevant application* means an application of a type mentioned in section 55A(1) that was made, but not decided, before the commencement of this section.

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**398 Application of guidelines to existing applications**

- (1) This section applies to any of the following applications made, but not decided, before the commencement of this section—
  - (a) an application for a gaming machine licence;
  - (b) an application for additional licensed premises;
  - (c) an application to have the approved number of gaming machines for licensed premises increased.
- (2) To remove doubt, it is declared that a guideline issued by the commission under section 17 applies to an application mentioned in subsection (1) in the same way it would if the application were made after the commencement.

**Division 5 Provisions for Gaming Machine Amendment Act 2001**

**399 Transitional provision for applications relating to gaming machine licences**

- (1) This section applies to each of the following applications (each of which is a *relevant application*)—
  - (a) an application under section 56 for proposed Liquor Act premises or for Liquor Act premises, that is received by the chief executive before midday on 8 May 2001;
  - (b) an application under section 81 made by a category 1 licensee, that is received by the chief executive before midday on 8 May 2001;
  - (c) an application under section 56, that is received by the chief executive at or after midday on 8 May 2001 and before or at 5p.m. on 29 June 2001, if—
    - (i) the applicant had applied under the *Liquor Act 1992* for a general liquor licence and the application for the general liquor licence was

received by the liquor licensing authority before midday on 8 May 2001; and

- (ii) at midday on 8 May 2001, the liquor licensing authority had not finished dealing with the application by issuing a general liquor licence for the premises.
- (2) Subsection (3) applies to a relevant application if—
    - (a) it is a relevant application mentioned in subsection (1)(a) that was made by a subsidiary operator relating to special facility premises; and
    - (b) the applicant altered the relevant application before 5p.m. on 29 June 2001; and
    - (c) the alteration changed the premises stated in the relevant application to other premises; and
    - (d) when the alteration was made, the chief executive was satisfied, on reasonable grounds, that the other premises were, or would be, relevant to a special facility liquor licence and the applicant would be the subsidiary operator of the other premises.
  - (3) The alteration to the relevant application is authorised to the extent it changed the premises, and the application continues to be a relevant application despite that alteration.
  - (4) Subject to subsection (5), subsection (3) does not limit the way in which an application for a gaming machine licence may be dealt with under this Act.
  - (5) A relevant application must not have been amended, and may not be amended, to increase the number of gaming machines stated in the relevant application.
  - (6) If the commission has not made a decision about a relevant application by 31 December 2001, the relevant application lapses at the end of that day unless the commission fixes a date under subsection (7) for it to lapse.
  - (7) Before 31 December 2001, the commission may fix a date after 31 December 2001 as the date for a relevant application to lapse if—

- 
- (a) the chief executive receives an application for deferment of the lapsing of the relevant application before or at 5p.m. on 30 November 2001; and
  - (b) the commission is, after considering the application for deferment, satisfied there are exceptional circumstances for a deferment of the lapsing of the relevant application; and
  - (c) the date fixed is no later than 30 June 2002.
- (8) If the commission fixes a date under subsection (7) as the date for a relevant application to lapse and the commission has not made a decision about the relevant application immediately before the end of that day, the relevant application lapses at the end of that day.
- (9) An applicant for deferment must include as part of the application all supporting information and material the applicant considers relevant to establish the exceptional circumstances for the deferment.
- (10) In this section—

*Liquor Act premises* means premises specified in a general liquor licence, on-premises licence or a special facility licence under the *Liquor Act 1992* as licensed premises under that Act.

*proposed Liquor Act premises* means premises in relation to which there is an application to the liquor licensing authority for a general liquor licence, on-premises licence or special facility licence and for which a licence has not been issued under the *Liquor Act 1992*.

#### **400 What happens to an application if made after 8 May 2001**

- (1) This section applies to an application under section 56 or 81 that could not be made under this Act after the commencement of the *Gaming Machine Amendment Act 2001*, sections 6 and 8.

[s 401]

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- (2) To remove any doubt, it is declared that the application is taken not to be validly made, and must not be dealt with, under this Act.
- (3) No proceeding may be taken at or after midday on 8 May 2001 against the State or a departmental officer for an action or failure to take an action relating to the application.
- (4) If a proceeding relating to the application was started before the commencement of this section against the State or a departmental officer, the proceeding is stayed and the court dealing with the proceeding must dismiss the proceeding.

**401 First month for which the major facilities levy is payable**

The major facilities levy under section 316B is payable for July 2001 and each month after July 2001.

**Division 6 Subsequent provisions for Gaming Machine Amendment Act 2001**

**402 Provision for applications for which a date has been fixed under s 399(7)**

- (1) This section applies to a relevant application for which the commission has, under section 399(7), fixed a date after 31 December 2001 as the date for the relevant application to lapse.
- (2) Despite section 399(8) and the date fixed by the commission, the date on which the relevant application lapses is 31 December 2002.
- (3) If the commission has not made a decision about a relevant application by the end of 31 December 2002, the relevant application lapses at the end of that day.
- (4) In this section—  
*relevant application* see section 399(1).

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**403 Transitional provision for applications continued under Liquor Act 1992 for removal of licences under Liquor Act 1912, s 49A**

- (1) This section applies to each of the following—
  - (a) a person who is, on or after the commencement day, entitled under the *Liquor Act 1992* to continue with an application for removal of a liquor licence;
  - (b) a person who is the holder of a liquor licence for premises to which the liquor licence was removed on or after 11 April 2002 as the result of an application for removal of the liquor licence.
- (2) The person may make an application for a gaming machine licence for liquor premises.
- (3) The gaming application must be made—
  - (a) before the end of the application period; and
  - (b) as an application under section 56 for a gaming machine licence.
- (4) A gaming application made as required under subsection (3) is to be dealt with as if it were an application for a gaming machine licence properly made under this Act and the liquor premises are to be dealt with as if the premises were to be category 1 licensed premises.
- (5) If the liquor premises specified in the gaming application change, the applicant for the gaming application must amend the gaming application to reflect the change.
- (6) The amendment of the gaming application is authorised to the extent it changes the premises specified in the gaming application to reflect the variation of the liquor premises, and the gaming application continues despite the amendment.
- (7) If the commission has not made a decision about the gaming application by 31 January 2003, the application lapses at the end of that day unless the commission fixes a date under subsection (8) for it to lapse.

- (8) Before 31 January 2003, the commission may fix a date after 31 January 2003 as the date for a gaming application to lapse if—
- (a) the chief executive receives an application for deferment of the lapsing of the gaming application before or at 5p.m. on 31 December 2002; and
  - (b) the commission is, after considering the application for deferment, satisfied there are exceptional circumstances for a deferment of the lapsing of the gaming application; and
  - (c) the date fixed is no later than 30 June 2003.
- (9) If the commission fixes a date under subsection (8) as the date for a gaming application to lapse and the commission has not made a decision about the gaming application immediately before the end of that day, the gaming application lapses at the end of that day.
- (10) An applicant for deferment must include as part of the application all supporting information and material the applicant considers relevant to establish the exceptional circumstances for the deferment.
- (11) This section is not limited by section 56 or division 5.
- (12) In this section—

***application for removal of a liquor licence*** means an application continued under the *Liquor Act 1992*, section 238A, that has not been disposed of before the commencement day.

***application period*** means the period starting on the commencement day and ending on 1 October 2002.

***commencement day*** means the day on which the *Revenue and Other Legislation Amendment Act 2002*, part 6, commences.

***gaming application*** means an application made under subsection (2).

***liquor premises*** means—

- 
- (a) premises that, as the result of an application for removal of a liquor licence, are licensed premises within the meaning of the *Liquor Act 1992*; or
  - (b) premises the subject of an application for removal of a liquor licence, and to which the liquor licence is to be removed on the grant of the application.

## **Division 7                      Transitional provisions for Gambling Legislation Amendment Act 2002**

### **404      Definition for div 7**

In this division—

*commencement* means the commencement of the provision in which the term is used.

### **405      Application of particular provisions to licensed major dealer and secondary dealer**

- (1) This section applies to a licensed supplier who is a licensed major dealer or licensed secondary dealer immediately before the commencement.
- (2) Section 163(1) does not apply to the licensed supplier until 9 months after the commencement.
- (3) Despite section 164(2)(a), the licensed supplier's first control system submission under section 164 must be made to the chief executive at least 90 days before the day that is 9 months after the commencement.

### **406      Dealing with existing applications**

- (1) This section applies to an application for a licence made under part 5 and not decided before the commencement.
- (2) The application must be decided under this Act as in force immediately after the commencement.

## **Division 9**                      **Provisions for Gambling Legislation Amendment Act 2004**

### **428**      **Definitions for div 9**

In this division—

*commencement* means the day this division commences.

*pre-amended Act* means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 4.

### **429**      **Dealing with notice to show cause**

- (1) This section applies if—
  - (a) under the pre-amended Act, section 219, the chief executive has issued a notice to show cause to the holder of a licence; and
  - (b) the notice to show cause has not been finally dealt with before the commencement.
- (2) For dealing with the notice to show cause, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.
- (3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the commission against a decision of the chief executive relating to the notice to show cause.
- (4) The person may appeal, and the commission may hear and decide the appeal, under the pre-amended Act.

### **430**      **Transitional provision about immediate suspension of licence**

- (1) This section applies if the chief executive—
  - (a) has suspended a licence under the pre-amended Act, section 220; and

- 
- (b) has not given the holder of the licence a notice to show cause as required under that section before the commencement.
  - (2) The chief executive must, within 7 days after suspending the licence, give the holder a notice to show cause under the pre-amended Act, section 219(2).
  - (3) The suspension of the licence continues until the notice to show cause is finally dealt with.
  - (4) For giving and dealing with the notice to show cause, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.
  - (5) Subsection (6) applies if, under the pre-amended Act, a person could appeal to the commission against a decision of the chief executive relating to the notice to show cause.
  - (6) The person may appeal, and the commission may hear and decide the appeal, under the pre-amended Act.

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

- (1) This section applies to a direction to rectify a matter given to a holder of a licence under the pre-amended Act, section 219(12)(c)(i), if, before the commencement—
  - (a) the period for rectifying the matter under that Act has not ended; or
  - (b) the period for rectifying the matter under that Act has ended and action has not been taken under section 219(13) of that Act in relation to a failure to comply with the direction.
- (2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.

#### **432 Appeals to commission**

- (1) Subsection (2) applies if—

[s 433]

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- (a) a person has appealed to the commission against a decision of the chief executive under a repealed provision; and
  - (b) the appeal has not been decided before the commencement.
- (2) The commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.
- (3) Subsection (4) applies if—
- (a) immediately before the commencement a person could have appealed to the commission against a decision of the chief executive under a repealed provision; and
  - (b) the person has not appealed before the commencement.
- (4) The person may appeal, and the commission may hear and decide the appeal, under the pre-amended Act.
- (5) In this section—
- repealed provision* means the pre-amended Act, section 219(12), (13) or (14), or 220(2).

**433 Continuation of obligation under pre-amended Act, s 261**

- (1) This section applies to a licensee if, immediately before the commencement, a prohibition by the licensee under the pre-amended Act, section 261, is in force.
- (2) The pre-amended Act, section 261, continues to apply to the licensee as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.

**434 Members of category 2 licensee's management committee or board**

- (1) This section applies to a person who, immediately before the commencement—
  - (a) holds office as a member of a category 2 licensee's management committee or board; and

- 
- (b) is a person to whom, apart from this section, section 341A(2) applies.
- (2) Section 341A(2) does not apply to the person until the person's current term ends.
- (3) In this section—
- current term**, for a person who holds office as a member of a category 2 licensee's management committee or board, means the person's term of office in which the commencement happens.

## **Division 10                      Provisions for Gambling Legislation Amendment Act 2005**

### **435      Definitions for div 10**

In this division—

**ANTA** means the Australian National Training Authority established under the *Australian National Training Authority Act 1992* (Cwlth).

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

**post-amended Act** means this Act as in force immediately after the commencement.

### **436      Application for gaming machine licence**

- (1) This section applies to an application for a gaming machine licence given to the chief executive, and not decided under section 58, before the commencement.
- (2) To help the commission decide the application, the applicant must give to the commission—
- (a) a statement in the approved form about the applicant's compliance program for the licence; and
- (b) a compliance program document for the licence.

- (3) If—
  - (a) the commission grants the application; and
  - (b) the licensee is an individual who is not required under this Act to have a nominee for the licensed premises under the licence;

the licensee must, before 31 December 2005, give the chief executive evidence that the chief executive considers on reasonable grounds shows the licensee has successfully completed an approved training course.

#### **437 Application for gaming nominee's licence**

- (1) This section applies to an application for a gaming nominee's licence given to the chief executive, and not decided under part 5, before the commencement.
- (2) If the chief executive grants the application, the holder of the gaming nominee's licence must, before 31 December 2005, give the chief executive evidence that the chief executive considers on reasonable grounds shows the holder has successfully completed an approved training course.

#### **438 Obligation of licensee**

- (1) This section applies to an individual who—
  - (a) was a licensee immediately before the commencement; and
  - (b) is not required under this Act to have a nominee for the licensed premises under the licence.
- (2) The licensee must, before 31 December 2005, give the chief executive evidence that the chief executive considers on reasonable grounds shows the licensee has successfully completed an approved training course.
- (3) However, subsection (2) does not apply to the licensee if—

- 
- (a) for at least 1 year immediately before the commencement, the licensee held a gaming machine licence; and
  - (b) before 31 December 2005, the licensee gives the chief executive evidence that the chief executive considers on reasonable grounds shows the licensee has, within 3 years before the commencement, successfully completed each of the following units of competency from the Hospitality (THH02) training package endorsed by ANTA—
    - (i) THHADG01B (Analyse and report on gaming machine data);
    - (ii) THHADG02A (Develop and manage gaming activities);
    - (iii) THHADG03B (Provide responsible gambling services);
    - (iv) THHBG01B (Attend gaming machines).

#### **439 Obligation of licensed gaming nominee**

- (1) This section applies to a person who was the holder of a gaming nominee's licence in force under this Act immediately before the commencement.
- (2) The holder must, before 31 December 2005, give the chief executive evidence that the chief executive considers on reasonable grounds shows the holder has successfully completed an approved training course.
- (3) However, subsection (2) does not apply to the holder if—
  - (a) for at least 1 year immediately before the commencement, the holder—
    - (i) was a licensed gaming nominee; and
    - (ii) was employed as a nominee of a licensee for licensed premises; and

- (b) before 31 December 2005, the holder gives the chief executive evidence that the chief executive considers on reasonable grounds shows the holder has, within 3 years before the commencement, successfully completed each of the following units of competency from the Hospitality (THH02) training package endorsed by ANTA—
- (i) THHADG01B (Analyse and report on gaming machine data);
  - (ii) THHADG02A (Develop and manage gaming activities);
  - (iii) THHADG03B (Provide responsible gambling services);
  - (iv) THHBG01B (Attend gaming machines).

#### **440 Inspectors**

A person who was an inspector immediately before the commencement is taken to be an inspector appointed under the post-amended Act, section 325A.

#### **441 Audit program for inspectors**

The program that was the inspectors audit program under this Act immediately before the commencement is taken to be the approved audit program under the post-amended Act, section 325H.

### **Division 11 Provisions for Revenue Legislation Amendment Act 2005**

#### **442 Dealing with major facilities levy amount**

- (1) Subsection (2) applies to an amount—
- (a) paid under the Act as major facilities levy before the commencement; and

- 
- (b) on the commencement, not used for a purpose mentioned in section 316A(2) as in force before the commencement.
- (2) The amount is transferred to the community investment fund.
- (3) An amount payable under the Act as major facilities levy but not paid before the commencement must be paid into the community investment fund.
- (4) This section applies despite sections 316C and 322(3) as in force before the commencement.
- (5) In this section—

*commencement* means the commencement of this division.

*community investment fund* means the community investment fund established under section 314.

#### **443 When health services levy is payable**

The health services levy under section 316B is payable for July 2006 and each month after July 2006.

### **Division 12 Provisions for Revenue and Other Legislation Amendment Act (No. 2) 2007**

#### **444 When gaming machine licence lapses—s 80A**

- (1) Subsection (2) applies if, immediately before the commencement of this section, a relevant date applied under section 80A in relation to a gaming machine licence.
- (2) Section 80A as in force immediately before the commencement continues to apply in relation to the gaming machine licence.

**445 When approval lapses—s 85AA**

- (1) Subsection (2) applies if, immediately before the commencement of this section, a relevant date applied under section 85AA in relation to an approval.
- (2) Section 85AA as in force immediately before the commencement continues to apply in relation to the approval.

**Division 13 Provision for Gambling Legislation Amendment Act 2008**

**446 Application for gaming machine licence—s 56**

Section 56(5)(m) as in force immediately before the commencement of this section applies to an application made but not decided before the commencement.

**Division 14 Provisions for Gambling and Other Legislation Amendment Act 2009**

**447 Definitions for div 14**

In this division—

*category 2 licence* means a gaming machine licence that relates to category 2 licensed premises.

*category 2 licensee* means a club that is a category 2 licensee on the commencement day.

*commencement day* means the day this section commences.

*valid application* means one of the following applications received by the chief executive before 16 April 2008—

- (a) an application under section 56 for a category 2 licence;
- (b) an application under section 61 for approval of premises as additional premises to which a category 2 licence relates;

- 
- (c) an application under section 81 to have the approved number of gaming machines for category 2 licensed premises increased.

#### **448 Allocation of entitlements on commencement day**

- (1) Subsection (2) applies if a valid application was granted in relation to category 2 licensed premises before the commencement day.
- (2) On the commencement day, entitlements equal in number to the approved number of gaming machines for the licensed premises are allocated for the premises.
- (3) Subsection (4) applies if—
  - (a) before the commencement day, a valid application was granted in relation to category 2 licensed premises; and
  - (b) after the application was granted but before the commencement day, the chief executive and the liquor licensing authority made arrangements under section 78—
    - (i) to transfer a liquor licence to the premises; and
    - (ii) at the same time, to issue a new category 2 licence for the premises.
- (4) For subsection (2), the valid application is taken to have been made by the holder of the new category 2 licence for the premises.
- (5) In this section—

*approved number of gaming machines*, for licensed premises, means—

  - (a) the number of gaming machines approved for the premises on the grant of a valid application; or
  - (b) if, on the commencement day, the approval of a gaming machine mentioned in paragraph (a) is no longer in force—the number of the gaming machines mentioned

in paragraph (a) for which an approval continues in force.

**449 Allocation of entitlements after commencement day**

- (1) Subsection (2) applies if a valid application is granted in relation to category 2 licensed premises after the commencement day.
- (2) On the granting of the valid application, entitlements equal in number to the approved number of gaming machines for the licensed premises are allocated for the premises.

**450 Replacement of gaming machine licence**

The chief executive must, as soon as practicable after entitlements are allocated under section 448 or 449—

- (a) replace the gaming machine licence for each licensed premises to which entitlements are allocated; and
- (b) give the replacement licence to the licensee for the premises.

**451 Information for replacement gaming machine licence**

A replacement licence given to a licensee under section 450 must state—

- (a) the number of entitlements endorsed for each licensed premises under the licence; and
- (b) the entitlement region in which each of the licensed premises are located.

**452 Transfer of entitlements allocated under s 448 or 449**

- (1) This section applies to entitlements allocated under section 448 or 449.
- (2) Despite section 109M(5), the commission must not grant an application for approval to transfer any of the entitlements

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under part 3B, division 2 until the transferor licensee has installed and is operating or has operated, on the transferor licensed premises, the approved number of gaming machines for the premises.

**453 Application of s 80A to category 2 licences granted between 16 April 2008 and commencement day**

- (1) This section applies to a category 2 licence for which an application under section 56 was—
  - (a) made on or after 16 April 2008; and
  - (b) granted before the commencement day.
- (2) Section 80A applies to the category 2 licence as if a reference in the section to the day the licence was granted is a reference to the commencement day.

**454 Application of s 85AA if approval under s 83 granted between 16 April 2008 and commencement**

- (1) This section applies to a category 2 licence for which an application under section 81 was—
  - (a) made on or after 16 April 2008; and
  - (b) granted before the commencement day.
- (2) Section 85AA(2) to (7) applies to the category 2 licence as if a reference in the section to the day the approval was given is a reference to the commencement day.

**455 Requirements about transferor licensed premises—109T**

For section 109T(6), section 109V(3) does not apply if—

- (a) the transferor licensee was notified under section 58, 63 or 83 on the granting of a valid application; and
- (b) at the time the application was made under section 109T, the transferor licensee had installed, on

the licensed premises, the approved number of gaming machines for the premises.

**456 Protection from liability**

- (1) This section applies to the following applications received by the chief executive on or after 16 April 2008 and before the commencement of the *Gambling and Other Legislation Amendment Act 2009*, section 41—
  - (a) an application under section 56 for a category 2 licence;
  - (b) an application under section 61 for approval of premises as additional premises to which a category 2 licence relates;
  - (c) an application under section 81 to have the approved number of gaming machines for category 2 licensed premises increased.
- (2) The State, a departmental officer or a commissioner does not incur civil liability for acting or failing to act in relation to the application.
- (3) If a civil proceeding relating to the application was started before the commencement day against the State, a departmental officer or a commissioner, the proceeding is stayed and the court dealing with the proceeding must dismiss it.
- (4) In this section—  
*commencement day* means the day this section commences.

**457 Transitional provision for s 189A**

- (1) Section 189A(1) does not apply until 1 July 2011 to a person who, immediately before the commencement day, was—
  - (a) an eligible licensee for licensed premises; or
  - (b) a nominee of the licensee for the premises; or
  - (c) employed by the licensee to carry out gaming duties or gaming tasks on the premises.

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- (2) Section 189A(3) does not apply until 1 July 2011 in relation to a person who, immediately before the commencement day, was employed to carry out gaming duties or gaming tasks on licensed premises.

**458 Extension of transitional arrangement for s 189A**

- (1) A person mentioned in section 457 may apply to the chief executive for an extension, until 1 July 2013, of the period during which section 189A(1) and (3) do not apply.
- (2) The application must be—
- (a) in the approved form; and
  - (b) accompanied by—
    - (i) a statement of attainment certifying that the person has, in Queensland during the period of 12 months immediately before the commencement of section 189A, achieved either of the following units of competency—
      - (A) SITHGAM003A (Provide responsible gambling services) from the nationally endorsed training package SIT07 (Tourism hospitality and event management);
      - (B) THHADG03B (Provide responsible gambling services) from the nationally endorsed training package THH02 (Hospitality); and
    - (ii) the fee prescribed under a regulation; and
  - (c) given to the chief executive before 30 April 2011.
- (3) The applicant must also provide any other relevant information reasonably required by the chief executive to decide the application.
- (4) The chief executive must grant the application if the requirements mentioned in subsections (2) and (3) are satisfied.

- (5) If the chief executive grants the application, the chief executive must give the applicant written notice of the decision.
- (6) The chief executive must refuse to grant the application if the requirements mentioned in subsections (2) and (3) are not satisfied.
- (7) If the chief executive refuses to grant the application, the chief executive must give the applicant a written notice stating the decision and the reasons for the decision.
- (8) In this section—

*nationally endorsed* see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

*statement of attainment* see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

*training package* see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

*unit of competency* see the *Vocational Education, Training and Employment Act 2000*, schedule 3.

## **Division 15                      Transitional provision for Liquor and Other Legislation Amendment Act 2010**

### **459      References to commission by its former name**

- (1) In a document, a reference to the commission by its former name may, if the context permits, be taken to be a reference to the commission.
- (2) In this section—

*former name* means the Queensland Gaming Commission.

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## Division 16                      Transitional provisions for Fiscal Repair Amendment Act 2012

### 460      Definitions for div 16

In this division—

*commencement* means the commencement of the provision in which the term is used.

*commission* means the Queensland Liquor and Gaming Commission established under the former Act.

*former*, for a provision of this Act, means the provision as in force before the commencement of the section in which the term is used.

*gaming employee's licence* means a gaming employee's licence under this Act immediately before the commencement.

*licensed gaming employee* means the holder of a gaming employee's licence in force under this Act immediately before the commencement.

### 461      Application for gaming nominee's licence before commencement

- (1) This section applies to an application for a gaming nominee's licence made under repealed section 196, and not decided, before the commencement.
- (2) The application must be decided under this Act as in force immediately before the commencement.

### 462      Continuation of gaming employee's licence expiring before commencement

- (1) This section applies to a person who is the holder of a gaming employee's licence that expired—
  - (a) on or after 11 September 2012; and

- (b) before the commencement.
- (2) The person is taken to be a licensed gaming employee from the date the licence expired until the commencement.

#### **463 Protection from liability**

- (1) This section applies if—
  - (a) before the commencement—
    - (i) an application for a gaming employee's licence is made under repealed section 197 or section 198; or
    - (ii) an application for renewal of a gaming employee's licence is made under section 207; and
  - (b) the application is not decided by the chief executive before commencement.
- (2) The State, a departmental officer or a commissioner does not incur civil liability for acting or failing to act in relation to the application.
- (3) If a civil proceeding relating to the application was started before the commencement against the State, a departmental officer or a commissioner, the proceeding is stayed and the court dealing with the proceeding must dismiss it.

#### **464 Dissolution of Queensland Liquor and Gaming Commission**

- (1) On the commencement—
  - (a) the Queensland Liquor and Gaming Commission is dissolved; and
  - (b) the commissioners of the Queensland Liquor and Gaming Commission go out of office.
- (2) No compensation is payable to a commissioner because of subsection (1).

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**465 Guidelines of commission and chief executive continue as guidelines of commissioner**

- (1) This section applies to the following guidelines—
  - (a) guidelines issued by the commission under former section 17 and in force immediately before the commencement;
  - (b) guidelines issued by the chief executive under former section 54A and in force immediately before the commencement.
- (2) On the commencement, the guidelines are taken to be guidelines made by the commissioner under section 18.

**466 Standards continue as standards of commissioner**

- (1) This section applies to standards made by the chief executive under former section 54B and in force immediately before the commencement.
- (2) On the commencement, the standards are taken to be standards made by the commissioner under section 19.

**467 Operators audit guidelines continue as guidelines of commissioner**

- (1) This section applies to operators audit guidelines prepared by the chief executive under former section 176 and in force immediately before the commencement.
- (2) On the commencement, the guidelines are taken to be operators audit guidelines prepared by the commissioner under section 176.

**468 Licensees audit guidelines continue as guideline of commissioner**

- (1) This section applies to licensees audit guidelines prepared by the chief executive under former section 301 and in force immediately before the commencement.

- (2) On the commencement, the guidelines are taken to be licensees audit guidelines prepared by the commissioner under section 301.

**469 Applications made to chief executive or commission taken to be made to commissioner**

- (1) This section applies if, before the commencement, a person made an application under this Act to the chief executive or commission and, immediately before the commencement, the application had not been finally dealt with.
- (2) The application is taken to have been made to the commissioner and the commissioner may deal or continue to deal with the application after the commencement.

**470 Orders etc. of chief executive or commission taken to be orders etc. of commissioner**

- (1) This section applies to an order, direction, notice, approval, action, authorisation or decision of the chief executive or commission under this Act that is current immediately before the commencement.
- (2) After the commencement, the order, direction, notice, approval, action, authorisation or decision is taken to be an order, direction, notice, approval, action, authorisation or decision of the commissioner and the commissioner may deal or continue to deal with the matter the subject of the order, direction, notice, approval, action, authorisation or decision.

*Examples—*

- 1 A gaming machine licence current immediately before the commencement is, after the commencement, taken to have been granted by the commissioner and continues to be current.
- 2 A gaming machine licence granted before the commencement that, immediately before the commencement, is suspended is, after the commencement, taken to have been granted, and suspended, by the commissioner.
- 3 The chief executive gave a show cause notice under former section 214B and at the commencement the show cause period had not ended. After the commencement, the commissioner may

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continue to act in relation to the show cause notice under part 5, division 6.

- (3) In this section—  
*current* includes in force.

**471 Appeal to tribunal about decisions of chief executive or commission**

- (1) This section applies if—
- (a) before the commencement, the chief executive or commission had made a decision about a matter for which an information notice must be given to a person; and
  - (b) immediately before the commencement, the person had not appealed the decision.
- (2) The person may appeal the decision to the tribunal after the commencement as if the decision about the matter had been made by the commissioner.
- (3) Nothing in this section affects —
- (a) the requirement that the person start the appeal within 28 days after receiving an information notice for the decision being appealed; or
  - (b) the tribunal's power to extend the time for starting an appeal.

**472 Existing appeals about decisions of chief executive or commission**

- (1) This section applies to an appeal against a decision of the chief executive or commission if, immediately before the commencement, the appeal had not been finally dealt with.
- (2) The appeal is taken to be an appeal against a decision of the commissioner and the court or tribunal may hear or continue to hear and decide the appeal after the commencement as if the decision had been made by the commissioner.

**473 Documents held by chief executive or commission become documents of commissioner**

- (1) This section applies to documents held by the chief executive or commission before the commencement that—
  - (a) relate to functions under this Act of the chief executive or commission before the commencement; and
  - (b) on the commencement, relate to similar functions to be performed by the commissioner under this Act.
- (2) On the commencement, the documents become the documents of the commissioner and may be used by the commissioner in performing the commissioner's functions under this Act.

**474 Approved forms continue as approved forms of commissioner**

- (1) This section applies to an approved form in force immediately before the commencement.
- (2) The approved form continues in force after the commencement as if it had been approved by the commissioner until the earlier of the following—
  - (a) the commissioner approves a new form for the matter the subject of the form;
  - (b) 12 months after the commencement.

**475 References in Acts and documents**

A reference in an Act or document to the commission may, if the context permits, be taken to be a reference to the commissioner.

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**Division 17**                      **Transitional provisions for Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Act 2013**

**Subdivision 1**                      **Preliminary**

**476**                      **Definitions for div 17**

In this division—

*amending Act* means the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Act 2013*.

*commencement* means the commencement of the provision in which the term is used.

*previous*, if followed by a provision number, means the provision of that number as in force immediately before it was amended or repealed by the amending Act.

**Subdivision 2**                      **General transitional provisions**

**477**                      **Application of s 67 for existing category 2 licences**

- (1) This section applies to a category 2 licensee whose licence is in force on the commencement.
- (2) Previous section 67(4) continues to apply for deciding the relevant time under section 67(1) for the category 2 licensee.

**478**                      **Disposal of gaming machines for licences cancelled or not renewed before commencement**

If a gaming machine licence has been cancelled or not renewed before the commencement, previous section 104 continues to apply for the licence.

**479 Appeal to tribunal for decisions about renewal made before commencement**

A person may, under section 29(1), apply for a review of a decision made before the commencement by the commissioner under previous section 76, as if the amending Act had not commenced.

**480 Existing applications for renewal of gaming machine licences extended under s 76(3)**

- (1) Subsection (2) applies if—
  - (a) before the commencement—
    - (i) the commissioner extended the term of a gaming machine licence under previous section 76(3); and
    - (ii) the licensee applied for a renewal of the licence under previous section 76; and
  - (b) on the commencement, the application has not been decided.
- (2) On the commencement, the application is taken to have been approved under the provisions of this Act as in force immediately before the commencement.

**481 Continuation of particular offences**

- (1) This section applies if a person is alleged to have committed an offence against the following provisions as in force immediately before the commencement—
  - (a) section 163;
  - (b) section 265(2).
- (2) Despite the Criminal Code, section 11, a proceeding for the offence may be started or continued, and the court may hear and decide the proceeding, as if the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Act 2013*, other than this section, had not commenced.

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**482 Refund of fee for particular applications for renewal of gaming machine licences**

- (1) This section applies if—
  - (a) during the period of 2 months immediately before the commencement, a licensee applied, under previous section 76, for renewal of the licensee's gaming machine licence; and
  - (b) the application was accompanied by the fee required under that section.
- (2) The commissioner must refund the fee to the licensee, whether or not the application was decided.

**483 Continuation of s 103 for gaming machine licences not renewed before commencement**

On the commencement, previous section 103 continues to apply in relation to a gaming machine licence that, before the commencement, ceased to have effect because it was not renewed.

**484 Existing unclaimed payments under previous s 242A**

- (1) This section applies if, immediately before the commencement, a person entitled to a payment mentioned in section 242A(1) or (3) had not collected the payment and the payment had not been dealt with under section 242A.
- (2) Previous section 242A(1) and (3) continues to apply in relation to the payment.

**485 Continuation of existing responsible service of gambling course certificate**

- (1) This section applies to a person's responsible service of gambling course certificate in force immediately before the commencement.
- (2) The certificate continues in force until the day that is 3 years after the certificate was given to the person.

### **Subdivision 3 Provisions for closing funds**

#### **486 Closure of sport and recreation benefit fund**

On the commencement—

- (a) the sport and recreation benefit fund under previous section 313 is closed; and
- (b) any amount remaining in the fund is transferred to the consolidated fund.

#### **487 Closure of community investment fund**

(1) On the commencement—

- (a) the former community investment fund is closed; and
- (b) any amount remaining in the fund is transferred to the consolidated fund.

(2) The Treasurer may, without further appropriation, withdraw an amount and pay it to an entity if—

- (a) the Treasurer either—
  - (i) decided, before the commencement, to pay the amount to the entity out of the former community investment fund; or
  - (ii) is satisfied the Minister decided, before the commencement, to pay the amount to the entity out of a continuing fund; and
- (b) immediately before the commencement, the amount has not been paid to the entity.

(3) In this section—

***continuing fund*** means—

- (a) the casino community benefit fund under the *Casino Control Act 1982*, section 52(1); or
- (b) the gambling community benefit fund under section 315.

*former community investment fund* means the community investment fund under previous section 314.

*Minister* means the Minister responsible, immediately before the commencement, for the administration of the relevant continuing fund.

## **Division 18**                      **Transitional provision for Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013**

### **488**      **Decision on increase application (gaming machines) not finally dealt with before commencement**

- (1) This section applies to an increase application (gaming machines) made, but not finally decided before the commencement.
- (2) In considering the application the commissioner may not have regard to the matters mentioned in section 82(3)(b)(i) or (iii) as in force immediately before the commencement.
- (3) In this section—

*commencement* means commencement of this section.

## **Division 19**                      **Transitional provision for Construction and Tourism (Red Tape Reduction) and Other Legislation Amendment Act 2014**

### **489**      **Additional premises application not finally dealt with before commencement**

- (1) This section applies to an additional premises application made, but not decided, before the commencement.
- (2) Section 63(3) applies to the decision about the application as if it had been made after the commencement.

- (3) In this section—

*commencement* means commencement of this section.

## **Division 20**                      **Transitional provision for Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016**

### **490**            **Continuation of hours of gaming for particular gaming machine licences**

- (1) This section applies in relation to a gaming machine licence for licensed premises, if—
- (a) the licence was in force immediately before the commencement; and
  - (b) because of the commencement of the *Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016*, section 62, from 1 July 2016 the hours during which liquor is permitted to be sold on the premises under the *Liquor Act 1992* are reduced.
- (2) Despite amended section 235(2), the hours of gaming fixed for the licensed premises continue to apply as if the hours during which liquor is permitted to be sold on the premises had not been reduced.
- (3) In this section—
- amended section 235(2)* means section 235(2) as in force on the commencement.

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**Division 21**                      **Savings provision for Justice and  
Other Legislation (COVID-19  
Emergency Response) Amendment  
Act 2020**

**491**      **Application of Acts Interpretation Act 1954, s 20A**

- (1) This section applies for the expiry of part 11A and a gaming tax notice made under part 11A.

*Note—*

Part 11A expires on 31 December 2020 under section 367F and a gaming tax notice made under part 11A expires on 31 December 2020 under section 367E(3).

- (2) A gaming tax notice made under part 11A is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A, as applied by the *Statutory Instruments Act 1992*, section 14, applies.
- (3) Section 367D is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

**Division 22**                      **Transitional provision for Criminal  
Code (Consent and Mistake of Fact)  
and Other Legislation Amendment  
Act 2020**

**492**      **Existing applications of significant community impact**

Section 55FA does not apply in relation to an application of significant community impact made before the commencement.

## **Schedule 1      Reviewable decisions**

section 29

### **Part 1                      Decisions or determinations of the commissioner affecting applicant for, or holder of, a licence**

<b>Section</b>	<b>Description of decision</b>
55	refusing to grant a gaming machine licence
59(2)	fixing a number of gaming machines for premises that is— <ul style="list-style-type: none"><li>(a) for premises mentioned in section 56(2)(c)—less than the number sought in the relevant application for the premises and less than the number approved for the premises at the time the application is made; or</li><li>(b) for other premises—less than the number sought in the relevant application for the premises</li></ul>
59(2)(a)(ii)	fixing hours of gaming for premises that differ from the hours of gaming sought in the relevant application for the premises
59(2)(a)(iii)	fixing the number of operating authorities to be transferred to premises if that number is less than the number sought in the application relating to the premises
63	refusing to approve additional premises as premises to which a category 2 licensee's gaming machine licence relates

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<b>Section</b>	<b>Description of decision</b>
64(2)	fixing a number of gaming machines for additional premises that is less than the number sought in the additional premises application
64(2)(b)	fixing hours of gaming for additional premises that differ from the hours of gaming sought in the relevant additional premises application
73(1)(b)	imposing conditions on a gaming machine licence
74(1)	imposing conditions or further conditions, or varying conditions, on a gaming machine licence
83(1)(a)	approving an increase in the approved number of gaming machines for a licensee's licensed premises that is less than the increase sought in the relevant application
83(1)(b)	refusing to approve an increase in the approved number of gaming machines for a licensee's licensed premises
85C(1)(b)	approving an increase in the approved hours of gaming for a licensee's licensed premises that differs from an increase sought in the relevant application
85C(1)(c)	refusing to approve an increase in approved hours of gaming for a licensee's licensed premises
87(1)(a)	approving, for a decrease proposal that is an application, a decrease in the approved number of gaming machines for a licensee's licensed premises that is less than the decrease sought in the application

<b>Section</b>	<b>Description of decision</b>
87(1)(a)	approving, for a decrease proposal that is a request or report, a decrease in the approved number of gaming machines for a licensee's licensed premises
87(1)(b)	refusing, for a decrease proposal that is an application, to approve a decrease in the approved number of gaming machines for a licensee's licensed premises
90C(1)(a)	approving, for a decrease proposal that is a request or a report, a decrease in the approved hours of gaming for a licensee's licensed premises
90C(1)(b)	approving, for a decrease proposal that is an application, a decrease in the approved hours of gaming for a licensee's licensed premises that is a modification of the proposal contained in the relevant application
90C(1)(c)	refusing, for a decrease proposal that is an application, to approve a decrease in the approved hours of gaming for a licensee's licensed premises
97(12)(c)	cancelling or suspending a gaming machine licence
97(13)	cancelling or suspending a gaming machine licence for failing to comply with a direction from the commissioner
98(1)	suspending a gaming machine licence
99	suspending a gaming machine licence
122	refusing to grant application for a supplier's licence
123	imposing a condition on a supplier's licence
127	changing a condition of a supplier's licence

<b>Section</b>	<b>Description of decision</b>
131	refusing to renew a supplier's licence
132	refusing, on an application made on the ground mentioned in section 132(1)(a), to replace a supplier's licence
147(2)(d)	suspending a supplier's licence
147(2)(e)	cancelling a supplier's licence
149	immediately suspending a supplier's licence
165(2)	directing a licensed supplier to include additional details about a matter in the supplier's control system for supply operations
201(1)	refusing to grant an application for a licence under part 5
205	imposing a condition on a licence under part 5
206(1)	changing a condition of a licence under part 5
207	refusing to renew a licence under part 5
214D	immediately suspending a licence under part 5
214E	suspending or cancelling a licence under part 5
214G	censuring the holder of a licence under part 5
214H	directing the holder of a licence under part 5 to rectify a matter

## **Part 2**                      **Decisions of a licensee affecting persons**

<b>Section</b>	<b>Description of decision</b>
261C	giving a person an exclusion direction

<b>Section</b>	<b>Description of decision</b>
261F	refusing to revoke an exclusion direction given to a person

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## Schedule 2 Dictionary

## section 2

***accepted representations***—

- (a) for part 4, division 6—see section 142; and
- (b) for part 5, division 6—see section 214C.

***accounting record***, of a licensee, means an accounting record required to be kept and maintained by the licensee under section 298(1).

***additional premises*** see section 61(3)(e).

***additional premises application*** means an application, made under section 61 by a category 2 licensee, for approval of premises (additional to the existing licensed premises) as premises to which the licensee's gaming machine licence relates.

***administered receipt*** see the *Financial Accountability Act 2009*, section 7(1).

***affected person***, for a payout refusal decision, see section 245(2)(a).

***ANTA***, for part 12, division 10, see section 435.

***application of significant community impact*** means an application mentioned in section 55A(1).

***approved 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 CPA Australia who holds a current public practice certificate issued by CPA Australia; or
- (c) a member of the Institute of Public Accountants who holds a current public practice certificate issued by the institute; or

- (d) a registered company auditor; or
- (e) a person approved by the commissioner as having the necessary experience or qualifications to conduct audits for the gaming operations of licensees.

**approved authority**, for licensed premises, means—

- (a) the Queensland Fire and Rescue Service; or
- (b) the local government whose area is the area in which the premises are situated.

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

- (a) a financial institution under the *Acts Interpretation Act 1954*, schedule 1;
- (b) a registered entity under the *Financial Sector (Collection of Data) Act 2001* (Cwlth);
- (c) another entity prescribed under a regulation.

**approved form** means a form approved by the commissioner under section 364.

**approved game** means a game approved by the commissioner under section 281(7).

**approved number**, of gaming machines, for licensed premises, means—

- (a) the number (the **original number**) of gaming machines originally permitted to be installed on the premises; or
- (b) if the original number is subsequently adjusted by an increase under section 83 or a decrease under section 88 as in force before 1 July 2003 or section 87—the original number as adjusted under the section or sections.

**approved place**, for the keeping of a licensee's accounting records for licensed premises of the licensee, means—

- (a) the licensed premises; or
- (b) a place approved by the commissioner under section 307(1)(a) for the records.

***approved place***, for the keeping of monitoring records of a licensed supplier, means—

- (a) the supplier's main office; or
- (b) a place approved by the commissioner under section 168(1)(a) for the records.

***approved responsible service of gambling course*** means a course, prescribed under a regulation, about the responsible service of gambling.

***approved training course*** means a course of study, approved by the commissioner, about the conduct of gaming.

***approved trust account*** means an account—

- (a) established with a financial institution for holding multiple site jackpot increments; and
- (b) approved by the commissioner.

***arrangement*** includes scheme, understanding, promise or undertaking, whether express or implied.

***article***, for part 10, division 2, see section 326.

***assessment period***, for licensed premises, means the period for which an assessment is required to be made under section 310(1) for the premises.

***associate***, of a person, has the meaning given by section 5.

***associates (contractors) audit program*** means an audit program, for investigating associates of licensed service contractors, approved under section 211(1)(b).

***associates (nominees) audit program*** means an audit program, for investigating associates of licensed gaming nominees, approved by the Minister under section 211.

***associates (repairers) audit program*** means an audit program, for investigating associates of licensed repairers, approved under section 211(1)(b).

***associates (suppliers) audit program*** means an audit program, for investigating associates of licensed suppliers, approved by the Minister under section 135(1).

**authorised entitlements sale** means a sale of entitlements of the State under section 109ZC.

**authorised gaming machine**, of a licensee, means a gaming machine purchased or otherwise acquired by the licensee under this Act, used or to be used for gaming on the licensee's licensed premises.

**authorised sale** means a sale of operating authorities under section 109B.

**authority region** means a region of the State prescribed under a regulation.

**basic monitoring services** means services supplied by a licensed monitoring 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.

**bodily harm** means any bodily injury that interferes with health or comfort.

**body corporate** means—

- (a) a corporation as defined in the Corporations Act; 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.

**category 1 licensed premises** means licensed premises for which one of the following licences under the *Liquor Act 1992* is in force—

- (a) a commercial hotel licence;
- (b) a commercial special facility licence, other than the commercial special facility licence held by the Gold Coast Commerce Club Inc.

**category 1 licensee** means a licensee whose gaming machine licence relates to category 1 licensed premises.

**category 2 licensed premises** means licensed premises that are not category 1 licensed premises.

**category 2 licensee**—

- (a) means a licensee whose gaming machine licence relates to a category 2 licensed premises; and
- (b) for part 3B, division 2, see section 109L.

**centralised credit system** means any electronic or computer system or device designed to be used for, or adapted to enable—

- (a) the centralised storage of credits of gaming tokens; and
- (b) the transfer of stored credits of gaming tokens to or from a gaming machine.

**claimant**, for a review of a payout refusal decision, see section 247(2).

**club** means a body corporate that holds a community club licence.

**commencement**—

- (a) for part 12, division 7—see section 404; and
- (b) for part 12, division 9—see section 428; and
- (c) for part 12, division 10—see section 435.

**commercial hotel licence** means a licence mentioned in the *Liquor Act 1992*, section 58(1)(a).

**commercial special facility licence** means a licence mentioned in the *Liquor Act 1992*, section 58(1)(b).

**commercial special facility premises** means premises to which a commercial special facility licence relates.

**commissioner** see section 15(1).

**community club licence** means a licence mentioned in the *Liquor Act 1992*, section 58(1)(d).

**community comments** means comments on an application made in response to an advertisement under section 55C.

**compliance program**, for a gaming machine licence, means a system of procedures and practices that—

- (a) relates to the licensee's gaming operations; and
- (b) is used by the licensee—
  - (i) to ensure the licensee complies with this Act; and
  - (ii) to monitor the licensee's compliance.

**compliance program document**, for a gaming machine licence, means a document describing the compliance program for the licence.

**compliance self-assessment** see section 264A(1).

**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 3.

**contractors audit program** means an audit program, for investigating licensed service contractors, approved under section 211(1)(a).

**control action**, under the Corporations Act, see section 6.

**control system** means a system of internal controls for the conduct by a licensed supplier of the supplier's supply operations.

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

**criminal history**, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

**decision-maker**, for a review by the tribunal, means the entity who made the decision being reviewed.

**decrease**, of approved hours of gaming, does not include a change to hours of gaming that would allow the conduct of gaming on licensed premises at a time when gaming was previously unlawful (even though the change might reduce aggregate hours of gaming).

**decrease proposal** means (according to context)—

- (a) a decrease proposal (gaming machines); or
- (b) a decrease proposal (hours of gaming).

**decrease proposal (gaming machines)** means—

- (a) an application made by a licensee under section 86 for a decrease in the approved number of gaming machines for licensed premises of the licensee; or
- (b) a request made by an approved authority under section 86 for a decrease in the approved number of gaming machines for licensed premises of a licensee; or
- (c) a report made by an inspector under section 86 recommending a decrease in the approved number of gaming machines for licensed premises of a licensee.

**decrease proposal (hours of gaming)** means—

- (a) an application made by a licensee under section 90A for a decrease in the approved hours of gaming for licensed premises of the licensee; or
- (b) a request made by an approved authority under section 90A for a decrease in the approved hours of gaming for licensed premises of a licensee; or
- (c) a report made by an inspector under section 90A recommending a decrease in the approved hours of gaming for licensed premises of a licensee.

**departmental accounts**, of a department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

**departmental financial-institution account**, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

**departmental gaming officer** means a departmental officer who performs functions as a departmental officer solely or mainly for the purposes of this Act or a gaming Act.

**departmental officer** means a public service employee employed in the department, and includes any person to whom section 386 applies.

**digital authority** see the *Transport Planning and Coordination Act 1994*, section 29AC.

**digital device** see the *Transport Planning and Coordination Act 1994*, section 29AB.

**digital evidence of age** see the *Transport Planning and Coordination Act 1994*, section 29AD.

**digital evidence of identity** see the *Transport Planning and Coordination Act 1994*, section 29AE.

**directly interested person**, for a licensed monitoring operator, means—

- (a) an approved financier with whom the operator has entered into an agreement or arrangement relating to the operator's monitoring operations; or
- (b) a secured creditor of the operator.

**disclosed associate** means a person stated in a disclosure affidavit as being a person who satisfies a description mentioned in section 182(4)(a) or (b).

**disclosure affidavit** see section 182.

**displayed win** see section 244(1).

**due date for payment** see section 7.

**education and care service premises** see the Education and Care Services National Law (Queensland), section 5(1).

**electronic monitoring system** means any electronic or computer system or device that is designed to be used, or adapted, to receive data from gaming equipment in relation to

the security, accounting or operation of gaming equipment and includes an electronic or computer system or device capable of identifying the player.

**employ** includes engage on a contract for services or commission and use the services of, whether or not for reward.

**endorsed number**—

- (a) of operating authorities for licensed premises, means the number of operating authorities stated on the gaming machine licence for the licensed premises; or
- (b) of entitlements for licensed premises, means the number of entitlements stated on the gaming machine licence for the licensed premises, other than the number of any entitlements for other licensed premises that have been transferred under part 3B, division 3 for use on a temporary basis at the premises.

**entitlement** means an authorisation for a category 2 licensee to, subject to this Act, install and operate a gaming machine on category 2 licensed premises.

**entitlement**, of a category 2 licensee, means an entitlement endorsed on the licensee's gaming machine licence as an entitlement for licensed premises under the licence.

**entitlement**, of the State, means—

- (a) an entitlement that is an entitlement of the State under section 78(6), 78A(8), 87(10), 91A(4), 95(2E) or 109ZA; or
- (b) another entitlement, other than an entitlement that is—
  - (i) allocated under section 448 or 449; or
  - (ii) transferred by operation of section 78(5) or 78A(7); or
  - (iii) purchased at an authorised entitlements sale.

**entitlement selling entity** see section 109ZC.

**excluded interested person**, for a licensed monitoring operator, means an indirectly interested person of the operator

designated by the commissioner to be an excluded interested person for the operator.

**exclusion direction** see section 261C(1).

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

**exempt accounting record** see section 307.

**exempt monitoring record** see section 168(1)(b).

**existing licence** see section 64(1).

**existing premises** see section 63(2)(b).

**financial institution** means—

- (a) the Reserve Bank of Australia; or
- (b) an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cwlth), section 5; or
- (c) a person who carries on State banking within the meaning of the Commonwealth Constitution, section 51(xiii); or
- (d) 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

**financial year** means the period of 1 year ending on 30 June in any year or, if the commissioner, under section 4 approves some other date as the terminating date of a financial year in a particular case, the period so approved.

**former licensee** see section 302(2).

**former operator** see section 177(2).

**game** means a game—

- (a) designed to be played on a gaming machine; and
- (b) that is identifiable from all other games by—

- (i) the name of the game; or
- (ii) differences in rules or programming.

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

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

- *Casino Control Act 1982*
- *Charitable and Non-Profit Gaming Act 1999*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Lotteries Act 1997*
- *Wagering Act 1998*.

***gaming duties*** means duties about the conduct of gaming prescribed under a regulation.

***gaming employee*** means—

- (a) a person employed by a licensee to carry out gaming duties; or
- (b) a nominee of a licensee.

***gaming equipment***—

- (a) means the following—
  - (i) a gaming machine;
  - (ii) linked jackpot equipment;
  - (iii) an electronic monitoring system;
  - (iv) a centralised credit system;
  - (v) a part of, or replacement part for, anything mentioned in subparagraph (i) to (iv); and
- (b) in relation to the testing operations of a licensed testing facility operator, includes—
  - (i) gaming machine types; and
  - (ii) mathematics, artwork and software for a game.

***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 343 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 68 that is in force.

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

***gaming operations***, of a licensee, means gaming conducted, and the conduct of gaming, on the licensee's licensed premises.

***gaming related system*** means—

- (a) an electronic monitoring system; or
- (b) a centralised credit system; or
- (c) a TITO system.

***gaming system component*** means—

- (a) a gaming machine; or

- (b) gaming equipment, other than a gaming machine; or
- (c) equipment, other than gaming equipment, that is ancillary or related equipment for a gaming machine; or
- (d) the approved game for a gaming machine.

***gaming system malfunction*** means a malfunction of a gaming system component.

***gaming token*** means Australian currency and any token, credit, ticket 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 licensed dealer) 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.

***holder***, of a licence under this Act, means the person to whom the licence is issued.

***increase***, of approved hours of gaming, includes a change to hours of gaming that would allow the conduct of gaming on licensed premises at a time when gaming was previously unlawful (even though the change might leave aggregate hours of gaming unchanged or reduce the aggregate).

***increase application*** means (according to context)—

- (a) an increase application (gaming machines); or
- (b) an increase application (hours of gaming).

***increase application (gaming machines)*** means an application made by a licensee under section 81 for an increase in the approved number of gaming machines for licensed premises of the licensee.

***increase application (hours of gaming)*** means an application made by a licensee under section 85A for an increase in the approved hours of gaming for licensed premises of the licensee.

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

***indirectly interested person***, for a licensed monitoring operator, means a person the operator knows, or ought reasonably to know, has an interest in the operator's licence, but does not include a directly interested person of the operator.

***information notice*** means a written notice complying with the QCAT Act, section 157(2).

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

***interested person***, for a licensed monitoring operator, means a directly or indirectly interested person of the operator.

***interested person***, of a holder of a licence under part 5, means—

- (a) if the holder is a licensed key monitoring employee or a licensed service contractor—a licensed monitoring operator; or
- (b) if the holder is a licensed repairer—a licensed monitoring operator, a licensed service contractor or another licensed repairer.

***involved licensed monitoring operator***, for a payout refusal decision for a displayed win, means—

- (a) if paragraph (b) does not apply—a licensed monitoring operator who, when the decision was made, was supplying basic monitoring services to the involved licensee; or
- (b) if, when the decision was made, the gaming machine to which the displayed win related was part of a linked jackpot arrangement—the licensed monitoring operator by whom the arrangement was operated.

***involved licensee***, for a payout refusal decision, see section 245(2)(b).

***jackpot payout*** see section 9.

***key monitoring employee*** see section 185(1).

**key officer** see section 186.

**licensed dealer** means—

- (a) a licensed major dealer; or
- (b) a licensed secondary dealer.

**licensed gaming nominee** means the holder of a gaming nominee's licence in force under this Act.

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

**licensed major dealer** means the holder of a major dealer's licence in force under this Act.

**licensed monitoring operator** means the holder of a monitoring operator's licence in force under this Act.

**licensed person** means—

- (a) a licensed repairer; or
- (b) a licensed service contractor; or
- (c) a licensed gaming nominee; or
- (d) a licensed key monitoring employee.

**licensed premises**—

- (a) means premises on which a licensee is licensed to conduct gaming; and
- (b) for part 3B, division 2, see section 109L.

**licensed repairer** means the holder of a repairer's licence in force under this Act.

**licensed secondary dealer** means the holder of a secondary dealer's licence in force under this Act.

**licensed service contractor** means the holder of a service contractor's licence in force under this Act.

**licensed supplier** means—

- (a) a licensed monitoring operator; or
- (b) a licensed major dealer; or
- (c) a licensed secondary dealer; or

(d) a licensed testing facility operator.

***licensed testing facility operator*** means the holder of a testing facility operator's licence in force under this Act.

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

***licensees audit guidelines*** see section 301(1).

***linked jackpot arrangement*** means an arrangement under which 2 or more gaming machines are linked to a device recording a winning result or other event resulting in an amount, part of an amount, or something else, being won by a player.

***linked jackpot equipment*** means any 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; or
- (c) a right to sell liquor held by a person as a subsidiary operator.

***liquor licence transfer application*** means an application under the *Liquor Act 1992*, section 113 for the transfer of a liquor licence from the holder of the liquor licence to a proposed transferee.

***local community area*** has the meaning given by the guideline named 'Guidelines—Community Impact Statement' made by the commissioner under section 18.

***main office***, of a licensed supplier, means—

- (a) the supplier's principal place of business in the State; or
- (b) if the supplier is a corporation and has its registered office in the State—its registered office.

**malfunction**, of a gaming system component, means a failure of the component to function—

- (a) in the way it is designed to function; and
- (b) for a component programmed to function in a particular way—in the way it is programmed to function.

**management letter** means a written notice—

- (a) that is issued by an auditor in relation to an audit; and
- (b) that is not part of an audit report; and
- (c) in which the auditor identifies issues the auditor considers may be of concern to an entity or an entity's executive officers.

*Examples of issues for paragraph (c)—*

- 1 weaknesses in an internal control structure
- 2 inefficiencies
- 3 potential areas of risk

**metered amount** means the amount displayed on the total wins meter of a gaming machine or on a progressive jackpot prize meter.

**metered payouts** see section 10.

**metered turnover**, for licensed premises for an assessment period, means the aggregate amount of all bets made 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 turnover for the premises.

**money clearance** means—

- (a) for a gaming machine—the removal of gaming tokens, other than tickets, from the cash box or banknote acceptor of the gaming machine; or
- (b) for a centralised credit system—the deduction of an amount in relation to amounts received by a licensee from persons for establishing gaming machine credits under the system for the persons; or

- (c) for a TITO system—the deduction of an amount in relation to amounts received by a licensee from persons for establishing gaming machine credits under the system for the persons.

**monitoring operations**, of a licensed monitoring operator, means operations conducted by the operator under the operator's licence.

**monitoring record**, of a licensed monitoring operator, means a record (including a document) about the operator's monitoring operations.

**monthly taxable metered win**, for licensed premises for an assessment period, means the metered win for the premises for the period, less—

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

**multiple site jackpot increments**, for licensed premises, means the amount assessed by or for the commissioner 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.

**nominee**, of a licensee for premises, see section 193.

**nominees audit program** means an audit program for investigating licensed gaming nominees approved by the Minister under section 211.

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

- (a) the income, profits and assets of the body 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 body among, its members is prohibited.

***note acceptor*** means a device that accepts currency in exchange for gaming machine credits.

***operating authority*** means an authorisation for a category 1 licensee to, subject to this Act, install and operate a gaming machine on category 1 licensed premises.

***operating authority***, of a licensee, means an operating authority, other than an operating authority of the State, endorsed on the licensee's gaming machine licence as an operating authority for the licensed premises under the licence.

***operating authority***, of the State, means—

- (a) an operating authority that is an operating authority of the State under section 109F; or
- (b) another operating authority, other than an operating authority that—
  - (i) was allocated under repealed section 409; or

*Note—*

Repealed section 409 provided for the allocation, on 1 July 2003, of operating authorities to category 1 licensees.

- (ii) is transferred by operation of section 78(5); or
- (iii) is purchased at an authorised sale.

***operators audit guidelines*** see section 176(1).

***other amounts***, of a department, means amounts received by the department other than amounts received for a fund under this Act.

***ownership***, for a game change or a percentage return to player change, includes the holding of a lease or sublease.

***payout refusal decision***, for a displayed win, means a decision of a gaming employee under section 244(2) refusing—

- (a) to make a payment, or to allow a payment to be made, to a person for the credit the subject of the displayed win; or

- (b) to pay, or to allow to be paid, to a person the amount the subject of the displayed win; or
- (c) to award, or to allow to be awarded, to a person the non-monetary prize the subject of the displayed win.

**percentage return to player** see section 11.

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

**play a gaming machine** has the meaning given by section 12.

**police commissioner** means the commissioner of the police service.

**post-amended Act**, for part 12, division 10, see section 435.

**power**, for a delegation by the commissioner, includes doing an act or making a decision for the purpose of performing a function.

**pre-amended Act**, for part 12, division 9, see section 428.

**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.

**problem gambler** means a person whose behaviour relating to gambling—

- (a) is characterised by difficulties in limiting the amount of money or time the person spends on gambling; and
- (b) leads to adverse consequences for the person, other persons or the community.

**progressive jackpot prize meter** means a device for recording amounts that, if won by a player, would be—

- (a) payable to the player by the a licensee or licensed monitoring operator as a jackpot payout; or

- (b) credited to the credit meter of the player's gaming machine as a jackpot credit.

***promotions*** means an amount, part of an amount, or something else, able to be won by playing a gaming machine, whether or not a winning result for a game is obtained, and made available by a licensee or licensed monitoring operator, but, if a winning result for a game is obtained, does not include the amount constituted by the winning result itself.

***proposed action***, for part 5, division 6, see section 214B(2)(a).

***QEC service premises*** see the *Education and Care Services Act 2013*, schedule 1.

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

***records***, for part 10, division 2, see section 326.

***registered company auditor*** means a person registered as an auditor, or taken to be registered as an auditor, under the Corporations Act, part 9.2.

***registration number***, of an operating authority, means the unique number assigned to the operating authority by the commissioner.

***relevant local community area***, for old premises, means the area that would, under a community impact statement prepared under section 55B, be the local community area for the old premises if an application were being made in relation to the old premises.

***repairers audit program*** means an audit program, for investigating licensed repairers, approved under section 211(1)(a).

***responsible service of gambling course certificate*** means a certificate given to a person for satisfactorily completing an approved responsible service of gambling course.

***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, centralised credit system or TITO system

but does not include anything declared under section 343 not to be a restricted component.

**restricted official** means an inspector or departmental officer—

- (a) to whom a direction has been given by the commissioner under section 339(1); and
- (b) for whom the direction is in force.

**review decision** see section 247(4)(a).

**revocation notice**—

- (a) for part 6, division 10, subdivision 1—see section 261B(1); and
- (b) for part 6, division 10, subdivision 2—see section 261F(5).

**self-exclusion notice** see section 261(1).

**self-exclusion order** see section 261A(1)(a).

**selling entity** see section 109B.

**service contract** means any agreement to install, alter, adjust, maintain or repair gaming equipment on licensed premises or otherwise in a licensee's possession, but does not include an agreement to carry out any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 187(3).

**show cause notice**—

- (a) for part 4, division 6—see section 140(2); and
- (b) for part 5, division 6—see section 214B(1).

**show cause period**, for part 4, division 6, see section 140(2)(d).

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

**site controller**, of a gaming machine, means an electronic device that, as a part of an electronic monitoring system, receives data directly from the gaming machine for the

purpose of monitoring and controlling the operation of the gaming machine.

***subsidiary operator*** means—

- (a) an individual or body corporate to which the holder of a commercial special facility licence has, with the approval of the commissioner under the *Liquor Act 1992*—
  - (i) let or sublet part of the commercial special facility premises; and
  - (ii) let or sublet the right to sell liquor; or
- (b) an individual or body corporate with which the holder of a commercial special facility licence has, with the approval of the commissioner under the *Liquor Act 1992*—
  - (i) entered into a franchise or management agreement for part of the commercial special facility premises; and
  - (ii) let or sublet the right to sell liquor.

***substantial holding***, in a body corporate, see the Corporations Act, section 9.

***suppliers audit program*** means an audit program, for investigating licensed suppliers, approved by the Minister under section 135.

***supplier's licence*** means—

- (a) a monitoring operator's licence; or
- (b) a major dealer's licence; or
- (c) a secondary dealer's licence; or
- (d) a testing facility operator's licence.

***supply operations***, of a licensed supplier, means operations conducted by the licensed supplier under its supplier's licence.

***supporting material*** means—

- (a) for an additional premises application—any information or documents received by the commissioner in response to a notice given under section 62(2)(b) about the application; or
- (b) for an application for a gaming machine licence—any information or documents received by the commissioner in response to a notice given under section 57(2)(b) about the application; or
- (c) for an application for a licence under part 5—any information or documents received by the commissioner in response to a notice given under section 200(3)(a) about the application; or
- (d) for an increase application—any information or documents received by the commissioner in response to a notice given under section 82(2) about the application.

**testing operations**, of a licensed testing facility operator, means operations conducted by the operator under the operator's licence.

**ticket** means an item that—

- (a) displays a value in Australian currency; and
- (b) is designed to be used as part of a TITO system in the place of Australian currency.

**TITO system** means any electronic system or device designed to be used for, or adapted to enable, the transfer of credits to or from a gaming machine using a ticket.

**total approved number**, of gaming machines, for 2 or more licensed premises to which a single gaming machine licence relates, means the number representing the total of each of the approved numbers of gaming machines for each of the premises.

**total wins meter** means a device for recording amounts (other than amounts recorded on the progressive jackpot prize meter) that, if won by a player, would be—

- (a) payable to the player by the licensee; or

- 
- (b) credited to the credit meter of the player's gaming machine.

***transferee licensed premises***—

- (a) for part 3B, division 2, see section 109L; and  
(b) for part 3B, division 3, see section 109S.

***transferee licensee***—

- (a) for part 3B, division 2, see section 109L; and  
(b) for part 3B, division 3, see section 109S.

***transferor licensed premises***—

- (a) for part 3B, division 2, see section 109L; and  
(b) for part 3B, division 3, see section 109S.

***transferor licensee***—

- (a) for part 3B, division 2, see section 109L; and  
(b) for part 3B, division 3, see section 109S.

***tribunal*** means QCAT.

***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.