



New South Wales

Casino Control Amendment (Regulation of Liquor) Regulation 1997

under the
Casino Control Act 1992

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Casino Control Act 1992*.

J. RICHARD FACE, M.P.,
Minister for Gaming and Racing

Explanatory note

Schedule 4 to the *Casino Control Regulation 1995* lists provisions of the *Liquor Act 1982* that are applied in the casino and shows how those provisions are to be modified in their application to the casino. At present, the only liquor licensee on the casino premises is the casino operator. However, when the casino moves to permanent premises it is intended that other persons be able to operate licensed premises. The object of this Regulation is to amend the *Casino Control Regulation 1995* to apply provisions relating to the making and determination of applications by persons wanting liquor licences for the casino premises. The Regulation also applies other provisions relating to complaints against licensees and associates of licensees, to the conduct of licensed premises and to the payment of fees.

This Regulation is made under the *Casino Control Act 1992*, including section 170 (the general regulation-making power) and section 89.

1997 No 624

Clause 1 Casino Control Amendment (Regulation of Liquor) Regulation 1997

Casino Control Amendment (Regulation of Liquor) Regulation 1997

1 Name of Regulation

This Regulation is the *Casino Control Amendment (Regulation of Liquor) Regulation 1997*.

2 Commencement

This Regulation commences on 26 November 1997.

3 Amendment of Casino Control Regulation 1995

The *Casino Control Regulation 1995* is amended as set out in Schedule 1

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Schedule 4 Application of Liquor Act 1982 to the casino

Omit the sentence appearing under the heading "Application of Liquor Act 1982 to the casino".

Insert instead:

Those provisions of the *Liquor Act 1982* specified in Part A of this Schedule apply to and in respect of the licensed premises, modified to read as set out in Part C of this Schedule.

In addition, those provisions of the *Liquor Act 1982* specified in Part B of this Schedule apply to and in respect of those parts of the licensed premises:

- (a) that are not operated by a casino operator, or
- (b) are operated by a casino operator under section 42 of those applied provisions,

modified to read as set out in Part C of this Schedule.

[2] Schedule 4, Part A

Omit the heading to Part A. Insert instead:

Part A Provisions applying to licensed premises (whether or not operated by casino operator)

[3] Schedule 4, Part A

Insert in appropriate order in Part A:

12, 36

[4] Schedule 4, Part A

Omit "112,".

[5] Schedule 4, Part B

Insert after Part A:

Part B Additional provisions applying to casino premises not operated by casino operator

4A, 21, 37, 38, 40, 41, 42, 42A, 42B, 42C, 42D, 47, 47A, 48, 55, 56, 58, 60, 61, 62A, 66, 66A, 67, 68, 68A, 69, 71, 71A, 76, 76A, 79, 90, 104A, 112, 119, 125A, 126, 142, 151B.

[6] Schedule 4, Part B

Omit the heading to Part B. Insert instead:

Part C The applied provisions as modified

[7] Schedule 4, Part B

Insert in alphabetical order in section 4 (1):

application includes an application for a conditional grant of the application.

conditional application means an application that may only be granted conditionally.

entertainment means entertainment provided by a person or persons physically present and actually providing the entertainment.

financial institution means:

- (a) a bank as defined by section 5 of the *Banking Act 1959* of the Commonwealth or a bank constituted under a law of a State or Territory, or
- (b) a building society within the meaning of the *Financial Institutions (NSW) Code* or a law of another State, or of a Territory, that corresponds to that Code, or
- (c) a credit union within the meaning of the *Financial Institutions (NSW) Code* or a law of another State, or of a Territory, that corresponds to that Code.

nightclub means premises in which liquor is sold with or as ancillary to entertainment.

owner, in relation to premises, means the person entitled to the rents or profits of the premises.

refreshments does not include liquor.

restaurant means premises in which liquor is sold with or as ancillary to a meal for consumption at a table on the premises.

[8] Schedule 4, Part B

Insert “the Director or” before “an inspector” in the definition of **inspector** in section 4 (1).

[9] Schedule 4, Part B

Omit “dining” from the definition of **meal** in section 4 (1).

[10] Schedule 4, Part B

Insert “(not operated by a casino operator)” after “premises” where firstly occurring in the definition of **restricted area** in section 4 (1).

[11] Schedule 4, Part B

Omit paragraph (a) from the definition of **restricted area** in section 4 (1).

Insert instead:

(a) a restaurant, or

[12] Schedule 4, Part B

Insert after section 4:

4A Meaning of “close associate”

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for a licence or a licensee if the person:
 - (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the

applicant or licensee that is or will be carried on under the authority of the licence, and by virtue of that interest or power is or will be able (in the opinion of the Authority) to exercise a significant influence over or with respect to the management or operation of that business, or

(b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the applicant or licensee that is or will be carried on under the authority of the licence.

(2) In this section:

relevant financial interest, in relation to a business, means:

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or
- (c) any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business is or is to be carried on (such as, for example, an entitlement of the owner of licensed premises to receive rent as lessor of the premises).

relevant position means:

- (a) the position of director, manager or secretary, or
- (b) any other position, however designated, if it is an executive position.

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any directorial, managerial or executive decision, or
- (b) to elect or appoint any person to any relevant position.

(3) A financial institution is not a close associate within the meaning of this section by reason only of having a relevant financial interest in relation to a business.

[13] Schedule 4, Part B

Omit section 6B. Insert instead:

6B Delegations

- (1) The Commissioner of Police may delegate to a person any function conferred or imposed on the Commissioner by this Act, other than this power of delegation.
- (2) The person to whom a function has been delegated by the Commissioner of Police under this section may delegate the function to another person, subject to any conditions to which the delegation by the Commissioner is subject.
- (3) The Director may delegate to a person any function conferred or imposed on the Director by this Act, other than this power of delegation.

12 Procedure before the Authority

- (1) In any matter before it, the Authority is not bound by the rules of evidence or natural justice and may inform itself on any matter in such manner as it sees fit.
- (2) The Authority may consider and determine a matter in the absence of the public if the Authority thinks it appropriate.

[14] Schedule 4, Part B

Insert after section 20:

21 Licences—miscellaneous conditions

The premises to which a licence relates (except a part of the premises in which liquor is being sold or supplied with or as ancillary to a meal served on the premises or in which meals or substantial refreshments are available

with or without charge) must not be open at any time for the sale or supply of liquor for consumption on the premises unless, in the casino or the casino environs, at least a light meal is available, with or without charge, for consumption by persons to whom liquor is sold or supplied.

Division 4 Making of applications

36 Restrictions on liquor licence applications

An application for a licence may be made by a body corporate only.

37 Making of application

- (1) An application under this Act must be:
 - (a) made in a form approved by the Authority, and
 - (b) lodged with the Authority in triplicate, and
 - (c) except in the case of an application for transfer of a licence, accompanied by such information as the Authority requests in relation to the proposed operation of the licensed premises, and
 - (d) except in the case of an application for transfer of a licence, accompanied by 3 copies of a plan, properly drawn to scale, of the premises in respect of which the application is made, and
 - (e) accompanied by evidence of the consent of the casino operator to the making of the application.
- (2) An application must be accompanied by \$500 and, if the application is granted, the fee specified in section 56 (if applicable) is reduced by that amount.
- (3) Where, before an application for a licence or transfer of a licence is disposed of, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection) or in the documents lodged with the

application, the applicant must forthwith give the Authority a notice in writing specifying particulars of the change.

Maximum penalty: 20 penalty units.

(4) For the purposes of subsection (3), an application is disposed of when the application is granted or refused.

38 Statutory declaration as to interested persons

(1) An application:

- (a) for a licence, or
- (b) for transfer of a licence under section 42,

must be accompanied by the statutory declaration referred to in subsection (2).

(2) The statutory declaration specified in this subsection is a statutory declaration by a person having knowledge of the facts stating:

- (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statutory declaration, and
- (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
- (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.

(3) For the purposes of subsection (2), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive or does receive:

- (a) any income derived from the business, or any other financial benefit or financial advantage from

the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or

(b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

40 Application for conditional grant

- (1) An application for a licence may be made as a conditional application if the premises to which the licence will relate are premises proposed to be erected, or premises proposed to be added to or altered, in accordance with an approved plan lodged with the application or are premises already erected in respect of which there is lodged with the application any consent required under another Act for the proposed use, or proposed change of use, of the premises.
- (2) Upon such terms as the Authority thinks fit, the Authority may consider and determine an application to amend a conditional grant.
- (3) Before granting a conditional application, the Authority may require to be lodged with the Authority a further approved plan that shows an amendment required by the Authority to be made to the approved plan or plans previously lodged in relation to the application.
- (4) In this section:

approved plan, in relation to proposed licensed premises, or a proposed addition to or alteration of licensed premises, means a plan of the proposed premises, or of the proposed addition or alteration, that is accompanied by:

- (a) each approval that, by the *Local Government Act 1993* or any other Act, is required for the carrying out of any work represented by the plan, and
- (b) any consent required under the *Environmental Planning and Assessment Act 1979* for the carrying out of that work.

41 Application for transfer of licence

- (1) Application for transfer of a licence may be made by the licensee and the proposed transferee.
- (2) An application must be accompanied by the statutory declaration referred to in section 38 (2) (if applicable).

42 Application on dispossession of licensee

- (1) This section applies where a licence is current and:
 - (a) the licensee is evicted from the licensed premises, or
 - (b) to the exclusion of the licensee, the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises.
- (2) Where this section applies, application for a transfer of the licence may be made:
 - (a) where the licensed premises are the subject of a contract with the owner of the premises pursuant to which the licence is exercised—by the owner of the premises or by a casino operator, or
 - (b) in any other case—by a person directly or indirectly interested in the exercise of the licence.
- (3) The owner of licensed premises, a casino operator or a person interested directly or indirectly in the exercise of the licence, who comes into possession of the premises is to be taken to be the licensee of the premises until:
 - (a) the day that is 28 days after this section becomes applicable, or
 - (b) the day on which application is made under subsection (2),whichever first occurs.
- (4) Where an application is made under subsection (2) not later than 28 days after this section becomes applicable, the applicant is, until the application is considered and

determined or otherwise disposed of, taken to be the licensee under the licence to which the application relates.

(5) The Authority may not determine an application for transfer of a licence under this section unless, in the absence of special circumstances, it is satisfied:

- (a) that notice of the application was given to the dispossessed licensee at least 3 clear days before the consideration of the application, or
- (b) that all reasonable steps necessary for giving notice in accordance with paragraph (a) were taken by or on behalf of the applicant and that failure to give the notice was not due to any neglect or default of the applicant or of any person employed by the applicant for the purpose of giving notice.

42A Fee for application for transfer of licence

An application for a transfer of a licence under section 41 or 42 must be accompanied by a fee of \$250.

Division 4A Investigation of applications

42B Authority to refer certain applications to Director

The Authority is to refer to the Director for investigation:

- (a) each application to the Authority for a licence, or for the transfer of a licence, that is lodged with the Authority under this Act, and
- (b) any changes of which the Authority is notified under section 37 in relation to such an application.

42C Investigations by Director

(1) On receiving for investigation an application for a licence or for the transfer of a licence, the Director must carry out all such investigations and inquiries in relation to the applicant as are considered by the Director to be

necessary for a proper consideration of the application and is to complete those investigations and inquiries within 6 months after the application was lodged.

- (2) In particular, the Director must refer to the Commissioner of Police details of the applicant together with any supporting information in relation to the applicant that the Director considers to be appropriate for referral to the Commissioner.
- (3) The Commissioner of Police is to inquire into, and report to the Director on, such matters concerning the applicant as the Director may request.
- (4) An application is to proceed to be dealt with even if any investigation, inquiry or report under this section in relation to the applicant has not been completed within 6 months after the application was lodged.

42D Director may require further information

- (1) The Authority, or if an application has been referred to the Director, the Director may, by notice in writing, require a person making such an application, or may require a close associate of any such person, to do one or more of the following things:
 - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Authority or the Director such authorities and consents as the Authority or the Director requires for the purpose of enabling the

Authority or the Director to obtain information (including financial and other confidential information) from other persons concerning the person and his or her associates.

- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
- (3) The Authority may refuse to consider and determine an application if a requirement made under this section in relation to the application is not complied with.

Division 5 Objections to applications

47 Grant of application is discretionary

- (1) The Authority has a discretion to grant an application.
- (2) The Authority may refuse an application if it determines, after subsection (3) has been complied with:
 - (a) that the applicant is not a suitable person to be the holder of a licence, or
 - (b) that a person who is, was or will be a close associate of the applicant is not a suitable person to be a close associate of the holder of a licence, or
 - (c) in the case of an application for the grant of a licence—that a person who occupies a position of authority in the body corporate that is the applicant is not a suitable person to occupy such a position in a body that is to be the holder of a licence.
- (3) A determination under subsection (2) may not be made unless:
 - (a) the applicant has been made aware of reasons for the possibility of such a determination, and
 - (b) the applicant has been given an opportunity to make submissions, and to bring to the attention of the Authority any matter related to those reasons that the applicant thinks fit.

47A Refusal of application—responsible service standards

The Authority is to refuse an application for a licence unless satisfied that practices will be in place at the licensed premises as soon as the licence is granted that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place.

Division 6 Grant of applications

48 Application of Division

- (1) Subject to sections 58 and 60, the provisions of this Division apply to and in respect of the conditional grant of an application in the same way as they apply to and in respect of the unconditional grant of an application of the same kind.
- (2) The requirements of this Division relating to premises apply to and in respect of a conditional application as if the premises to which the conditional application relates had been erected or, as the case may be, added to or altered, in accordance with the plans upon which the application is based.

55 Issue of licence etc

- (1) Where the Authority grants an application for a licence, the licence is not to be issued unless the fee specified in section 56 is paid to the Authority and any condition without prior compliance with which the grant does not have effect has been complied with.
- (2) A grant of a licence does not have effect while the issue of the licence is prohibited by subsection (1).
- (3) A grant of a licence is cancelled after 3 months if the fee for the licence has not been paid.

56 Fee for grant of licence

The prescribed fee for the granting of a licence is:

- (a) in the case of a licence that authorises the licensed premises to be used as a restaurant only—\$500, or
- (b) in the case of a licence that authorises the licensed premises to be used as a nightclub only—\$60,000, or
- (c) in any other case—\$15,000.

58 Duration of conditional grant

If an application is conditionally granted under section 40, the grant has effect only while an approval or consent required by another Act for the use, erection, addition or alteration to which the grant relates has effect.

60 Final grant of application

- (1) The Authority may, on application, make a final grant of an application conditionally granted under section 40.
- (2) The Authority is not to make a final grant of an application to erect, add to, or alter, premises unless the applicant for the final grant produces evidence by which the Authority is satisfied that the work of erection, addition or alteration has been completed substantially in accordance with the approved plan on the basis of which the conditional application was granted.
- (3) An application for a final grant of a conditional application may not be made if the applicant has any knowledge of proceedings instituted in any court as a result of which, if determined at the time of the making of the application, the Authority might be precluded from finally granting the application.

61 Grant of transfer of licence

- (1) Subject to this section, the Authority may grant an application under section 41 or 42 for the transfer of a licence to a person approved by it who would be entitled to apply for the same kind of licence in relation to the licensed premises.
- (2) Where the Authority is satisfied on the information before it that there is nothing that might preclude it from granting an application under section 41 or 42, the Authority may, at the request of the transferee and with the written consent of the transferor, make a provisional grant of the application.
- (3) A provisional grant of an application for the transfer of a licence ceases to have effect unless the provisional grant is confirmed by the Authority before:
 - (a) the expiration of a period specified by the Authority when provisionally granting the application together with such additional periods as the Authority thinks fit to allow upon application made before expiration of the period sought to be extended, or
 - (b) the lodging of an application by the transferor for a transfer of the licence to a different transferee, whichever first occurs.
- (4) Subject to subsection (3), a provisional grant of an application has the same effect as a grant of the application under subsection (1).
- (5) If a provisional grant of an application for the transfer of a licence ceases to have effect because of the operation of subsection (3), the Authority may make such orders in relation to the licence as it considers appropriate in the circumstances, including any of the following orders:
 - (a) an order that the licence is to revert to the transferor,
 - (b) an order treating a person (with the person's consent) as licensee until a transfer of the licence is effected,

- (c) an order that the licence not be exercised until specified conditions are met or the Authority orders otherwise.
- (6) A transfer of a licence has effect as if the licence had been granted to the transferee.

62A Director's report required before application may be granted

- (1) An application for a licence, or for the transfer of a licence, must not be granted by the Authority unless the Authority has received and considered a report by the Director as to any investigations and inquiries carried out, or reports received, under Division 4A.
- (2) However, the Authority may consider and determine such an application if any investigation, inquiry or report under that Division has not been completed or received by the Authority within 3 months after the application was lodged.
- (3) The 3-month period may be extended by the Authority on application being made by the Director before the end of the period.

Division 8 Disciplinary provisions

66 Interpretation

- (1) For the purposes of this Division, a reference to a conviction for an offence against this Act does not include a reference to a conviction for an offence under section 91.
- (2) In this Division, a reference to a licensee includes a reference to a former licensee and a reference to a manager includes a reference to a former manager.

66A Director may investigate licensee and others

- (1) The Director may at any time carry out all such investigations and inquiries as are considered by the Director to be necessary in order to ascertain whether a complaint should be made against a licensee, manager or close associate under section 67.

- (2) The Commissioner of Police is to inquire into, and report to the Director on, such matters as the Director may request concerning the licensee, manager or close associate to whom the complaint, if made, would relate.
- (3) The Director may, by notice in writing, require a licensee, a manager or a close associate who is the subject of an investigation under this section, or a close associate of such a licensee or manager, to do one or more of the following things:
 - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Director such authorities and consents as the Director requires for the purpose of enabling the Director to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and his or her associates.
- (4) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

67 Notice to show cause against taking of disciplinary action

- (1) A complaint in relation to a licensee or manager is an authorised complaint for the purposes of this section if it is made in writing by:
 - (a) the owner of the licensed premises,

1997 No 624

Casino Control Amendment (Regulation of Liquor) Regulation 1997

Schedule 1 Amendments

- (b) a person authorised in writing by 3 or more persons residing in the vicinity of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents,
- (c) the Commissioner of Police,
- (d) a person authorised by the local consent authority for the licensed premises,
- (e) a person authorised by:
 - (i) an industrial organisation of employees registered under the *Industrial Relations Act 1996*, or
 - (ii) an association of employees registered under the *Workplace Relations Act 1996* of the Parliament of the Commonwealth, as from time to time in force,
- (f) the Director, or
- (g) a casino operator,

and specifies as its grounds one or more of the grounds specified in section 68.

- (2) A complaint in relation to a licensee is an authorised complaint for the purposes of this section if:
 - (a) it is made in writing by a person authorised to do so by the relevant local consent authority referred to in subsection (1) (d), and
 - (b) it specifies, as the ground on which it is made, that the licensed premises are being opened for business even though the owner of the licensed premises has failed to comply with a direction or order of the local consent authority to carry out specified work on or in relation to the licensed premises.
- (3) A complaint in relation to a person who is a close associate of a licensee is an authorised complaint for the purposes of this section if it is made in writing by the

Commissioner of Police or the Director and specifies as its grounds one or more of the grounds specified in section 68 (2).

- (4) A complaint under subsection (3) can be made in conjunction with a complaint in relation to the licensee on the ground specified in section 68 (1) (j) or on any other ground and those complaints can be considered and determined together.
- (5) Upon the making of an authorised complaint, the Authority may give notice of the complaint to the licensee, manager or person to whom the complaint relates and allow him or her to make submissions as to why disciplinary action should not be taken against him or her in accordance with this Act.
- (6) A notice under subsection (5):
 - (a) must specify the grounds of the complaint on which it is issued,
 - (b) where a ground of complaint is the ground referred to in section 68 (1) (e), (i), (k) or (n) or (2) (a)—must specify the reasons given by the complainant for making the complaint on that ground, and
 - (c) must be served on the person the subject of the complaint and, if that person is not the licensee, on the licensee personally or by post, not less than 14 days before the day appointed for the consideration of the complaint.
- (7) Where a complaint is made under this section, a copy of the complaint must be served by post:
 - (a) where the licensee occupies the licensed premises under a contract—on the party to the contract granting the right of occupation, and
 - (b) on each person named:
 - (i) in the statutory declaration referred to in section 38 (2) that accompanied the application for the licence, or

- (ii) if a statutory declaration accompanied an application for transfer of the licence as referred to in section 41 (2) or has been produced to the Authority under section 101 (2)—in the later or latest of those statutory declarations, and
- (c) if the complaint is against a licensee on the ground that a person named in the complaint is a close associate of the licensee and is not a suitable person to be a close associate of a licensee—on that person, and
- (d) the casino operator,

and each person served with a copy of the complaint may make submissions to the Authority within 14 days of being so served as to why the disciplinary action should not be taken.

(8) Notwithstanding the other provisions of this section, a licensee who fails to comply with a condition of the licence is guilty of an offence against this Act but the same failure to comply with a condition of a licence may not be the subject both of proceedings under this subsection and an authorised complaint on the ground referred to in section 68 (1) (a) or (b).

68 Grounds for complaint

- (1) The grounds upon which a complaint may be made under section 67 (1) in relation to a licensee or a manager of licensed premises are:
 - (a) that the licensee or manager has, while holding a licence or managing licensed premises, been convicted:
 - (i) of an offence specified in the complaint (other than an offence against this Act) for which he or she has been sentenced to imprisonment, or
 - (ii) of an offence against this Act so specified,
 - (b) that the licensee or manager has been guilty of a breach of a condition of the licence concerned,

- (c) that the licensee or manager has failed to comply with a direction or order of the Authority given or made under this Act and specified in the complaint,
- (d) that a requirement of the Director made under this Act in relation to the investigation of the licensee or manager and specified in the complaint has not been complied with,
- (e) that the continuation of the licence is not in the public interest,
- (f) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
- (g) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
- (h) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises,
- (i) that the licensee is not a suitable person to be the holder of a licence or the manager is not a suitable person to be the manager of the licensed premises,
- (j) that a person named in the complaint is a close associate of the licensee and is not a suitable person to be a close associate of a licensee,
- (k) that a person named in one of the following statutory declarations made in relation to the licence held by the licensee or, where more than one such statutory declaration has been made, the later or latest of those statutory declarations, namely:
 - (i) a statutory declaration, referred to in section 38 (2), which accompanied the application for the licence,

1997 No 624

Casino Control Amendment (Regulation of Liquor) Regulation 1997

Schedule 1 Amendments

- (ii) a statutory declaration, referred to in section 38 (2) as applied by section 41 (2), which accompanied an application for the transfer of the licence,
- (iii) a statutory declaration referred to in section 101 (2), produced to the Authority,
- (1) that a person who occupies a position of authority in the body corporate that is the holder of the licence is not a suitable person to occupy such a position in a body that is the holder of a licence,
- (m) that entertainment has been conducted on the licensed premises otherwise than in accordance with the conditions of an approval under Part 1 of Chapter 7 of the *Local Government Act 1993* or the provisions of any regulation made under that Act, or
- (n) that the licence is considered not to have been exercised in the public interest.

(2) The grounds on which a complaint may be made under section 67 (3) in relation to a person who is a close associate of a licensee are as follows:

- (a) that the close associate is not a suitable person to be a close associate of a licensee,
- (b) that a complaint against the licensee under section 67 has been established and that:
 - (i) the close associate knew or ought reasonably to have known that conduct of the kind to which the complaint relates was occurring or was likely to occur on the licensed premises, and
 - (ii) the close associate failed to take all reasonable steps to prevent conduct of that kind occurring on the licensed premises,
- (c) that a requirement of the Director made under this Act in relation to the investigation of the close associate and specified in the complaint has not been complied with.

68A Complaints against close associates

- (1) For the purposes of section 68 (2), a complaint against a licensee under section 67 is taken to have been established if the Authority, when it considered the complaint and any submissions duly made in relation to the complaint, determined that the matter of the complaint had been established.
- (2) On the consideration and determination of the matter of a complaint under section 67 (3) on the ground specified in section 68 (2) (b), the onus is on the close associate to satisfy the Authority that the close associate took all reasonable steps to prevent conduct of the kind concerned occurring on the licensed premises.

69 Disciplinary powers of Authority

- (1) The Authority is to consider and determine the matter of a complaint and any submissions duly made in relation to the complaint and, if it is satisfied that the ground upon which the complaint was made has been established may, unless subsection (4) applies, do any one or more of the following:
 - (a) reprimand the licensee or manager,
 - (b) order the licensee or manager to pay to the Crown a monetary penalty not exceeding 500 penalty units or, if circumstances of aggravation exist in relation to the complaint, not exceeding 1,000 penalty units,
 - (c) impose a condition to which the licence is to be subject or revoke or vary a condition to which the licence is subject,
 - (d) suspend the licence for a specified period,
 - (e) cancel the licence,
 - (f) disqualify the licensee from holding a licence for such period as the Authority thinks fit,
 - (g) in the case of a manager of licensed premises, withdraw the manager's approval by the Authority to manage licensed premises,

1997 No 624

Casino Control Amendment (Regulation of Liquor) Regulation 1997

Schedule 1 Amendments

- (h) in the case of a manager of licensed premises, disqualify the manager from being the holder of an approval to manage licensed premises,
- (i) where the ground established is the ground referred to in section 68 (1) (e) or (n), give such directions as to the exercise of the licence as it thinks fit, or
- (j) take no action.

(2) For the purposes of this section, circumstances of aggravation exist in relation to a complaint if (and only if) each of the following paragraphs applies:

- (a) the complaint concerns a Contravention or alleged contravention of section 125 (Conduct on licensed premises) or 125E (Sale of stolen goods or drugs on licensed premises),
- (b) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist,
- (c) the Authority, in finding that the matter of the complaint has been established, is of the opinion (having regard to any matter such as the number of contraventions of the Act involved, the seriousness of the contravention involved, the number of people involved in the contravention or the seriousness of the outcome of the contravention, or any other relevant consideration) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist.

(3) Where the Authority determines under subsection (1) that the matter of the complaint has been established, the Authority may, whether or not it acts under that subsection:

(a) reprimand:

- (i) a person required by section 67 (7) (b) or (c) to be served with a copy of the complaint, or
- (ii) a person who occupies a position of authority in the body corporate that holds the licence, or
- (iii) a director of, or shareholder in, a proprietary company required to be so served, or
- (iv) a director of, or shareholder in, a corporation that, within the meaning of the *Corporations Law*, is a related body corporate of a proprietary company referred to in subparagraph (iii),

(b) order a person, director or shareholder referred to in paragraph (a) to pay to the Crown a monetary penalty not exceeding 500 penalty units or, if circumstances of aggravation exist in relation to the complaint, not exceeding 1,000 penalty units,

(c) disqualify, for a period commencing on a specified day, a person, director or shareholder referred to in paragraph (a) from being:

- (i) a person interested in a business, or in the profits of a business, carried on pursuant to a licence (within the meaning of section 38 (3)) or a person who occupies a position of authority in a body corporate that holds a licence, or
- (ii) a director of, or shareholder in, a proprietary company so interested or a corporation that, within the meaning of the Corporations Law is a related body corporate of such a proprietary company,

unless it is proved that the person, director or shareholder had no knowledge of the matter upon which the complaint was made out and used all due diligence to obviate the necessity for the complaint.

- (4) If the ground of complaint as to which the Authority is satisfied under subsection (1) is the ground referred to in section 67 (2), the Authority may suspend the licence until:
 - (a) the work to which the complaint relates has been carried out, or
 - (b) the licence ceases for any reason other than suspension to have effect.
- (5) The Authority is to consider and determine the matter of a complaint under section 67 (3) and any submissions duly made and, if it is satisfied that the ground on which the complaint was made has been established, may do any one or more of the following:
 - (a) reprimand the person,
 - (b) disqualify the person from being a close associate of a licensee for such period as the Authority thinks fit,
 - (c) disqualify the person from holding a licence for such period as the Authority thinks fit,
 - (d) order the person to pay to the Crown a monetary penalty not exceeding 500 penalty units,
 - (e) take no action.
- (6) While a person is disqualified by the Authority from being a close associate of a licensee, the person is conclusively presumed for the purposes of this Act (as applied to and in respect of a casino) to be a person who is not a suitable person to be a close associate of a licensee.
- (7) The taking of action under subsection (5) in respect of a complaint does not prevent or limit the taking of any other action under this section in respect of any other complaint in relation to a licensee or manager (whether or not that other complaint is considered together with the Complaint).

- (8) When considering and determining the matter of a complaint under subsection (1) or (5), the Authority must consider any relevant findings of a court, a tribunal or a Royal Commission, the Independent Commission Against Corruption or other commission of inquiry or a coroner in any investigation, inquiry or other proceeding if those findings have been publicly released and are brought to the attention of the Authority.
- (9) The Authority is not to take action under this section unless a member of the Authority who is or has been a Judge, or is a legal practitioner of at least 7 years' standing, is present at the meeting of the Authority at which the decision to take the action is made.

[15] Schedule 4, Part B

Omit section 69D (1). Insert instead:

- (1) The Authority is not to approve a person to manage licensed premises unless satisfied that the person is a suitable person to manage licensed premises.

[16] Schedule 4, Part B

Insert after section 69H:

Division 9 General

71 Duplicate licence

The Authority may, on payment of the fee of \$50, issue a duplicate of a licence.

71A Endorsements on licences

A requirement of this Act that a condition or other matter be endorsed on a licence is sufficiently complied with if the condition or other matter is endorsed on a schedule to the licence.

76 Disposal of money by Authority

All money payable to the Authority is to be collected and received by the Authority on account of, and is to be paid into, the Consolidated Fund.

76A Date of payment to Authority by direct deposit

A payment made to the Authority for the purposes of this Act by means of payment to a bank, building society or credit union for direct deposit to the credit of the Authority is taken to have been paid to the Authority on the date of payment to that bank, building society or credit union.

[17] Schedule 4, Part B

Insert after section 78A:

79 Duration of licence

Except during any period of suspension, a licence remains in force until its surrender in writing is accepted by the Authority or it is sooner cancelled.

[18] Schedule 4, Part B

Insert before section 91:

90 Boundaries of licensed premises

The Authority may define or redefine the boundaries of licensed premises or proposed licensed premises of its own motion or on the application of:

- (a) the owner of the premises,
- (b) the licensee,
- (c) the applicant for a licence, or
- (d) a casino operator,

subject to each part of the licensed premises, as *so* defined or redefined, being in close proximity to all other parts thereof and being capable of supervision by the manager.

[19] Schedule 4, Part B

Insert at the end of section 101:

- (2) If a person (other than a licensee or a financial institution) becomes interested in the business, or the conduct of the business, of the licensed premises, it is a condition of the licence that the licensee must, within 28 days after the other person's becoming so interested, produce to the Authority a statutory declaration stating:
 - (a) that the licensee has made all reasonable inquiries to ascertain the information required to complete the statutory declaration, and
 - (b) the name and date of birth of the person so interested and in the case of a proprietary company, the names of the directors and shareholders.
- (3) For the purposes of subsection (2), a person is interested in the business, or the conduct of the business of the licensed premises concerned if the person is entitled to receive or does receive:
 - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
 - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

[20] Schedule 4, Part B

Insert after section 104:

104A Order by Authority for short-term closure of premises

- (1) The Authority may, by notice served on a licensee or a person apparently in charge of licensed premises, order the licensee to close the licensed premises from a time specified in the order until a later specified time.
- (2) The Authority may only make an order under this section:
 - (a) on the application of the Director, and
 - (b) if the Authority is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the premises and that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.
- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
 - (a) a threat to public health or safety, or
 - (b) a risk of substantial damage to property, or
 - (c) a significant threat to the environment, or
 - (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
- (4) An order must not require the closure of premises for a period longer than 72 hours.
- (5) An order may require the closure of premises until specified conditions are met but must not require closure for a period longer than 72 hours.

(6) A licensee must not fail to comply with an order made under this section.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

(7) Two or more orders closing the same premises may not be made under this section in any period of one week.

[21] Schedule 4, Part B

Omit section 116A (1) and (2). Insert instead:

(1) A minor:

(a) who enters or remains in a restricted area of licensed premises not operated by a casino operator, or

(b) who, in breach of the conditions of the licence, enters or remains in a part of licensed premises operated by a casino operator,

is guilty of an offence.

Maximum penalty: 10 penalty units.

(2) A minor who for any purpose enters or remains in:

(a) a part of licensed premises that are not operated by a casino operator and that are authorised under section 112 (1) (a) for use by a minor in the company of an adult, or

(b) a part of licensed premises that are operated by a casino operator and that are authorised by the conditions of the licence for use by a minor in the company of an adult,

is guilty of an offence against this Act unless the minor does so in the company and immediate presence of a responsible adult.

Maximum penalty: 10 penalty units.

1997 No 624

Casino Control Amendment (Regulation of Liquor) Regulation 1997

Schedule 1 Amendments

[22] Schedule 4, Part B

Omit “subsection (1) or (2)” from section 116A (3).

Insert instead “subsection (1) (a) or (2) (a)”.

[23] Schedule 4, Part B

Insert at the end of section 116B (1) (b):

, or

(c) enters, in breach of the conditions of the licence, a part of licensed premises operated by a casino operator,

[24] Schedule 4, Part B

Insert at the end of section 116B (2) (b):

, or

(c) is, in breach of the conditions of the licence, in a part of licensed premises operated by a casino operator,

[25] Schedule 4, Part B

Omit “authorised part of the licensed premises” wherever occurring in section 116B (3).

Insert instead “part of the licensed premises concerned”.

[26] Schedule 4, Part B

Insert ““(other than a casino operator)” after “licensee” in section 116C (I).

[27] Schedule 4, Part B

Insert after section 116C (1):

- (1A) A licensee that is a casino operator is guilty of an offence against this Act unless there is continuously displayed:
 - (a) in each part of the licensed premises from which minors are to be excluded, as required by a condition of the licence—a notice in accordance with subsection (2), and
 - (b) in each part of the licensed premises in which a minor is permitted to remain only in the company and immediate presence of a responsible adult, as required by a condition of the licence—a notice in accordance with subsection (3).

[28] Schedule 4, Part B

Insert “or (1A) (a)” after “(1) (a)” in section 116C (2).

[29] Schedule 4, Part B

Insert “or (1A) (b)” after “(1) (b)” in section 116C (3).

[30] Schedule 4, Part B

Insert “or (1A)” after “(l)” in section 116C (5).

[31] Schedule 4, Part B

Insert before section 121:

119 Sale etc of liquor outside trading hours

A licensee must not:

- (a) keep the licensed premises open for the sale or supply of liquor, or
- (b) sell or supply liquor,

at a time at which the licensee is not, by this Act or under the conditions of the licence, permitted to effect the sale or supply.

Maximum penalty: 20 penalty units.

[32] Schedule 4, Part B

Insert after section 125:

125A Production of licence

(1) The holder of a licence who fails, without reasonable excuse, to produce the licence on demand being made on the licensed premises by an inspector is guilty of an offence.

Maximum penalty: 5 penalty units.

(2) The onus of proving a reasonable excuse for the purposes of this section is on the licensee.

[33] Schedule 4, Part B

Insert after section 125E:

126 Gaming on licensed premises

(1) A licensee must not:

- (a) permit or suffer any gaming for stakes on the licensed premises,
- (b) permit or suffer the playing of an unlawful game on the licensed premises, or
- (c) in contravention of the *Gaming and Betting Act 1912*:
 - (i) open, keep or use the licensed premises, or
 - (ii) suffer the licensed premises to be opened, kept or used.

Maximum penalty: 10 penalty units.

(2) A servant of a licensee or a person, other than the licensee, in charge of licensed premises must not permit the playing of an unlawful game on the licensed premises.

Maximum penalty: 10 penalty units.

(3) The conduct on licensed premises of a lottery or game of chance pursuant to and in accordance with section 4 or 4A of the *Lotteries and Art Unions Act 1901* does not render a person liable to a penalty under subsection (1) or (2).

[34] Schedule 4, Part B

Insert after section 131 (2):

(3) It is a defence to a prosecution for an offence under subsection (1) if it is proved that the liquor concerned was carried away by a licensee or an employee of a licensee for the purpose of taking it to another part of the licensed premises.

[35] Schedule 4, Part B

Insert after section 141:

142 Licensee taking liquor off premises outside hours

In any proceedings for a contravention of section 119, liquor is deemed to have been sold or consumed on the licensed premises to which the proceedings relate notwithstanding that it is proved that the licensee took or carried, or employed or suffered another person to take or carry, the liquor out of the licensed premises for the purpose of being sold or consumed at a place in the occupation of the licensee or in a public street or other public place.

1997 No 624

Casino Control Amendment (Regulation of Liquor) Regulation 1997

Schedule 1 Amendments

[36] Schedule 4, Part B

Insert before section 152:

156B Service by post

A summons, notice or other instrument required or permitted to be served under this Act by post is taken to have been properly addressed for the purpose of its service by post if addressed to the person to whom it is directed at any of the following addresses:

- (a) the address of any licensed premises of which the person is licensee,
- (b) the address of the place at which the person resides, as last known to the Authority,
- (c) the address of a place at which the person carries on business, as last known to the Authority.

[37] Schedule 4, Part B

Omit “hearing” wherever occurring from section 155 (2).

Insert instead “consideration”.