



New South Wales

# Liquor Amendment (Monitoring and Links) Regulation 1998

under the  
Liquor Act 1982

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 1982*.

BOB MARTIN, MP  
Acting Minister for Gaming and Racing

## Explanatory note

Recent changes to the *Liquor Act 1982* have resulted in the following:

- Provision for the inter-hotel linking of gaming machines by way of an authorised linked gaming system to be run by a licensed operator and participating hoteliers (see Part 12 of the Act). A linked gaming system involves 2 or more gaming devices (such as poker machines) at different venues being linked electronically to contribute a percentage of the money wagered on the gaming devices to a separate jackpot pool.
- Provision for a centralised monitoring system (*CMS*) for hotel and registered club gaming machines to be operated under the authority of a licence (see Division 4 of Part 11 of the Act). The CMS will monitor the operation and performance of gaming machines in hotels and registered clubs, and facilitate the collection, assessment and payment of duty in respect of those gaming machines.
- Provision for TAB Limited to be entitled to an exclusive 15-year licence to operate an inter-hotel linked gaming system, as well as an exclusive 15-year licence to operate the authorised CMS.

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The object of this Regulation is to provide for certain administrative and regulatory detail relating to the implementation and operation of authorised inter-hotel linked gaming systems and the authorised CMS. In particular, this Regulation contains provisions relating to the following:

- the transfer of certain functions (eg the authorisation of gaming machines in hotels) of the Liquor Administration Board to the CMS licensee,
- the role of the CMS licensee in the assessment of duty payable in respect of hotel gaming machines,
- the payment by hoteliers of the monitoring fee under section 200G of the Act,
- the supervision of the operation of the authorised CMS (including provisions enabling the Minister to obtain information relating to the CMS licensee and certain other matters),
- procedures for obtaining the Liquor Administration Board's approval of the gaming devices comprising an inter-hotel linked gaming system,
- provisions designed to ensure the integrity of the operation of a linked gaming system (eg enabling the Minister to obtain information about key employees and to carry out probity checks),
- provisions enabling the Minister to give directions to a licensee, to participating hoteliers and to key employees in order to control and regulate the operation of a linked gaming system,
- provisions enabling the Minister to give directions concerning certain contracts relating to a linked gaming system.

This Regulation is made under the *Liquor Act 1982*, including Part 12 and section 156 (the general regulation-making power), in particular section 156 (1A) (ta)-(w).

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## Liquor Amendment (Monitoring and Links) Regulation 1998

### 1 Name of Regulation

This Regulation is the *Liquor Amendment (Monitoring and Links) Regulation 1998*.

### 2 Amendment of Liquor Regulation 1996

The *Liquor Regulation 1996* is amended as set out in Schedule 1.

### 3 Notes

The explanatory note does not form part of this Regulation.

## Schedule 1 Amendments

(Clause 2)

### [1] Clause 39AA

Insert before clause 39A:

#### 39AA Definition of “outgoings”: section 86JA

- (1) This clause applies to any approved gaming device that:
  - (a) is a specially approved gaming device within the meaning of Part 12 of the Act, and
  - (b) is part of an authorised linked gaming system within the meaning of that Part.
- (2) For the purposes of the definition of *outgoings* in section 86JA (1) of the Act, the amount that is deducted from an approved gaming device to which this clause applies in order to build a prize for the authorised linked gaming system is prescribed as an outgoing in respect of that approved gaming device.

### [2] Clause 40A

Insert after clause 40:

#### 40A Transfer of Board’s functions to CMS licensee: section 155B

- (1) This clause takes effect on and from the date referred to in the definition of *exclusive licence period* in section 200A of the Act as the operative date for the purposes of Division 4 of Part 11 of the Act.
- (2) In accordance with section 155B of the Act, any function of the Board under the Act relating to:
  - (a) the assessment of duty payable under Part 5 of the Act in respect of any approved gaming device that is connected to an authorised CMS, or
  - (b) the authorisation of any such gaming device (but only to the extent that those authorisation functions are carried out by electronic means through the operation of an authorised CMS),may be exercised by the CMS licensee who is operating the authorised CMS.

- (3) Those functions include, subject to subclause (2) (b), any of the Board's functions under sections 86L (5), 161 (other than section 161 (10)) and 164 (8) of the Act. However, those functions do not include any of the Board's functions under Part 12 of the Act.
- (4) The CMS licensee may not exercise any of the Board's functions that would result in an approved gaming device being required to be withdrawn from operation unless the CMS licensee has the Board's approval to do so.
- (5) In exercising the functions of the Board as referred to in this clause, the CMS licensee must:
  - (a) keep such records with respect to the authorisation of approved gaming devices as may be required by the Board, and
  - (b) make such reports to the Board with respect to the authorisation of approved gaming devices as may be required by the Board, and
  - (c) comply with such directions as may be issued by the Board.

**[3] Part 6A**

Insert after Part 6:

**Part 6A Monitoring of approved gaming devices**

**Division 1 General provisions**

**74A Operation of Part**

This Part takes effect on and from the date referred to in the definition of *exclusive licence period* in section 200A of the Act as the operative date for the purposes of Division 4 of Part 11 of the Act.

**74B Functions of CMS licensee under section 86JC**

- (1) In accordance with section 86JC of the Act, the following provisions apply in relation to the approved gaming devices to which that section applies:
  - (a) within 7 days of the end of each instalment period, the CMS licensee is to issue a notice to each hotelier who keeps any approved gaming device that is connected to the authorised CMS,
  - (b) the notice is to specify:
    - (i) the profits for the quarter as based on aggregated meter profit, and
    - (ii) the break-up of that profit as per each approved gaming device, and
    - (iii) the amount of duty payable by the hotelier for the quarter,
  - (c) the hotelier must:
    - (i) deposit that amount in a bank account before the end of the 21 day period referred to in section 86KA (7) of the Act, and
    - (ii) make arrangements with the Board that enable the Board to access that amount.
- (2) It is a condition of the hotelier's licence that the hotelier comply with subclause (1) (c).
- (3) it is a condition of the licence of the CMS licensee that a copy of each notice issued under subclause (1) is provided to the Board in accordance with such arrangements as may be made by the Board.

**74C Control of information obtained by CMS licensee: section 155C**

In accordance with section 155C (1) of the Act, the divulging of CMS information to any of the following persons or bodies is authorised:

- (a) the Board,
- (b) the Director of Liquor and Gaming,
- (c) a special inspector,
- (d) the Commissioner of Police,

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- (e) the Director-General of the Department of Gaming and Racing,
  - (f) the Minister,
  - (g) the hotelier from whom the CMS information has been acquired in the course of the operation of the authorised CMS.

#### **74D Payment of monitoring fee to CMS licensee: section 200G**

- (1) The monitoring fee payable by a hotelier under section 200G of the Act is to be paid by the hotelier to the CMS licensee who is operating the authorised CMS:
  - (a) in accordance with such arrangements as may be made between the hotelier and the CMS licensee (eg by way of electronic transfer from a nominated account), or
  - (b) if no such arrangements are made, in accordance with such other arrangements as may be approved by the Board.
- (2) The CMS licensee is entitled to recover any unpaid monitoring fee as a debt in a court of competent jurisdiction.

### **Division 2 Supervision of operation of authorised CMS**

#### **74E Definitions**

In this Division:

***contractor*** means a person who under a contract or other arrangement with a licensee performs any service in connection with the operation of an authorised CMS (whether or not the service is performed for fee, gain or reward) and includes an employee of the licensee and an agent of the licensee.

***key employee*** means a person (whether or not appointed under a contract of service) who is:

- (a) employed in a managerial or supervisory capacity in relation to the operation of an authorised CMS by a licensee or contractor, or

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- (b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee in relation to an authorised CMS operated by the licensee or contractor, or
- (c) otherwise concerned or engaged in the operation of an authorised CMS by a licensee or contractor.

**74F CMS licensee to inform Minister of changed circumstances**

If a change of a kind specified in the Table to this clause occurs in the circumstances that existed in relation to a licensee at the time the licensee was granted the licence, the licensee must notify the Minister in writing, not later than 14 days after the change occurs, of the particulars relating to the change that are specified in the Table in respect of that kind of change.

**Table**

<b>Kinds of change</b>	<b>Particulars to be notified</b>
Any change in the name of the licensee, the licensee's principal business address or postal address, telephone number or facsimile number.	Particulars of those matters as changed.
Any change in the membership of the board of directors of the licensee.	Particulars of the name, address and date of birth of any new director.
Any change in the name or address of any member of the board of directors of the licensee.	Particulars of the new name or address of the director.
Any change in any direct or indirect financial interest held by the licensee in any business or enterprise, including the acquisition or disposal of such an interest.	Particulars of the interest both before and after the change.



**74G Minister may require information relating to CMS licensee and other persons**

- (1) The Minister may, by notice in writing, require a licensee or contractor, or a person who, in the opinion of the Minister, has a direct or indirect association with a licensee or contractor:
  - (a) to provide the Minister or a special inspector, in accordance with directions in the notice, with the information relevant to the licensee or contractor or that association, that is specified in the notice, or
  - (b) to produce to the Minister or a special inspector, in accordance with directions in the notice, the documents relevant to the licensee or contractor or that association that are specified in the notice and to permit examination of the documents, the taking of extracts and notes from the documents, and the making of copies of them, or
  - (c) to attend before the Minister or a special inspector for examination in relation to any matters relevant to the licensee or contractor or that association and to answer any questions relating to those matters.
- (2) A person who fails to comply with a requirement of a notice under this clause is guilty of an offence.  
Maximum penalty: 50 penalty units.
- (3) A natural person is not excused from complying with a notice under this clause on the ground that compliance might tend to incriminate the person. However, if the person claims, before complying with the notice, that compliance might tend to incriminate the person, information provided in compliance with the notice is not admissible in evidence against the person in criminal proceedings other than proceedings under the Act.
- (4) If documents are produced under this clause, the Minister or special inspector to whom they are produced may retain possession of them for a reasonable period so that they may be examined and extracts taken from, or copies made of, them.

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- (5) The Minister or special inspector must permit inspection of the documents at any reasonable time during which they are retained under this clause, by a person who would be entitled to inspect them if they were not in the possession of the Minister or inspector.
- (6) A person who complies with a requirement of a notice under this clause does not on that account incur a liability to another person.

### **74H Minister may require licensee or contractor to provide particulars concerning key employees**

- (1) The Minister may, by notice in writing served on a licensee or a contractor, require the licensee or contractor to provide the Minister, within a reasonable time specified in the notice, with the following:
  - (a) the names of all persons who are key employees of the licensee or contractor,
  - (b) the positions held by, and the duties of, those employees,
  - (c) any other relevant particulars relating to those employees as are specified in the notice.
- (2) A person who fails to comply with a requirement of a notice under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

### **74I Minister may require key employees to provide information**

- (1) The Minister may, by notice in writing served on a key employee, require the key employee:
  - (a) to consent, in accordance with directions in the notice, to having his or her photograph, finger prints and palm prints taken, and
  - (b) to provide, in accordance with directions in the notice, the information (verified by statutory declaration) relevant to the key employee that is specified in the notice, and

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- (c) to produce, in accordance with directions in the notice, the documents relevant to the key employee that are specified in the notice and to permit examination of the documents and the taking of extracts from, and the making of copies of, them, and
- (d) to furnish the authorities and consent that the Minister may require for the purpose of obtaining further information (including financial and other confidential information) from other persons and institutions.
- (2) The Minister is to refer to the Commissioner of Police copies of photographs, finger prints and palm prints obtained in respect of a key employee under this clause and with any supporting information that the Minister considers should be referred to the Commissioner.
- (3) The Commissioner of Police is to inquire into, and report to the Minister on, any matters concerning the key employee that the Minister may request.
- (4) A key employee is not excused from complying with a notice under this clause on the ground that compliance might tend to incriminate the employee. However, if the employee claims, before complying with the notice, that compliance might tend to incriminate the employee, information provided in compliance with the notice is not admissible in evidence against the employee in any criminal proceedings other than proceedings under the Act.
- (5) A key employee who complies with a requirement of a notice under this clause does not on that account incur a liability to another person.

#### **74J Failure of key employee to provide information**

- (1) The Minister may, if a key employee refuses or fails to comply with a requirement of a notice served on the key employee under clause 74I, by notice in writing, direct

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the licensee or other person concerned to terminate immediately and not to renew the employment or arrangement by reason of which the key employee is a key employee of the licensee or other person.

- (2) A person who does not give effect to a direction given to the person under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

### **74K Power to terminate employment of key employee at Minister's direction**

- (1) This clause applies in respect of a direction given by the Minister under this Division to an employer to terminate the employment of a key employee or the other arrangement by reason of which a key employee is a key employee of the employer.
- (2) It is taken to be a condition of any agreement or other arrangement entered into between an employer and a key employee that the employer has the rights required to enable the employer to give effect to a direction to which this clause applies.
- (3) Any such termination of an employment or arrangement has effect accordingly, and the employer or the State does not incur any liability by reason of that termination.
- (4) In this clause, employer means a licensee, contractor or other person to whom a direction to which this clause applies is given.

### **74L Destruction of finger and palm prints of former key employees**

- (1) Any finger prints or palm prints obtained under this Division, and any copies of them, are to be destroyed as soon as the key employee from whom they were obtained is no longer a key employee.

- (2) A person:
- (a) who has possession of finger prints or palm prints obtained by the Minister under this Division, or copies of them, and
  - (b) who fails to deliver them to the Minister, in accordance with the written directions of the Minister, to enable subclause (1) to be complied with,

is guilty of an offence.

Maximum penalty (subclause (2)): 20 penalty units.

#### **74M Prejudice to integrity of authorised CMS**

- (1) The Minister may give a direction under this clause if the Minister is of the opinion that the integrity or apparent integrity of an authorised CMS is likely to be seriously prejudiced because of:
- (a) any irregularity or alleged irregularity of any kind, or
  - (b) the character or reputation of any person concerned in the operation of the authorised CMS, or
  - (c) any other fact or circumstance reported to the Minister.
- (2) The Minister may, for the purpose of avoiding the prejudice referred to in this clause, by notice in writing, direct:
- (a) the licensee, or
  - (b) a contractor, or
  - (c) any other person concerned, in whatever capacity, in the management or supervision of an authorised CMS.

to take (or to refrain from taking) any action specified in the notice.

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- (3) A person who does not comply with a direction given to the person under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

### **74N Minister may direct CMS licensee to terminate certain contractual arrangements**

- (1) If a person who is a contractor of a licensee does not comply with a direction given to the person under clause 74M, the Minister may, by notice in writing, direct the licensee to terminate, within a time specified in the notice, the contract or other arrangement under which the person is a contractor of the licensee.

- (2) A licensee who does not comply with a notice given to the licensee under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

- (3) It is taken to be a condition of any contract or other arrangement entered into between a licensee and a contractor that the licensee has the rights required to enable the licensee to give effect to a direction to which this clause applies.

- (4) Any such termination of a contract or other arrangement has effect accordingly, and neither the State nor the Minister incurs any liability by reason of that termination.

- (5) The Minister may exempt specified contracts or other arrangements or specified classes of contracts or other arrangements from the operation of this clause. The effect of such an exemption is that a contract or other arrangement to which the exemption applies cannot be the subject of a direction under this section.

### **74O Prejudice to integrity of authorised CMS involving key employee**

- (1) The Minister may give a direction under this clause if the Minister is of the opinion that the integrity or apparent

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integrity of an authorised CMS operated by a licensee is likely to be seriously prejudiced because of:

- (a) the criminal record of a key employee, or
  - (b) the character or reputation of a key employee.
- (2) The Minister may, by notice in writing, direct:
- (a) the licensee, or
  - (b) a contractor, or
  - (c) any other appropriate person,

to terminate immediately and not to renew the employment or arrangement by reason of which the key employee is a key employee of the licensee, contractor or other person.

- (3) A person who does not comply with a direction given to the person under this clause is guilty of an offence.

Maximum penalty (subclause (3)): 50 penalty units.

### **Division 3 Notification, control and termination of certain contracts relating to authorised CMS**

#### **74P Definitions**

In this Division:

***contract*** includes any kind of agreement or arrangement.

***relevant contract*** means a contract relating to the supply of goods or services to a licensee in connection with the operation of an authorised CMS and that is:

- (a) for the purchase or servicing (or both) of any device or equipment used in connection with the authorised CMS or the security arrangements in relation to the operation of the authorised CMS, or
- (b) for a total consideration of more than \$1,000,000, or
- (c) a contract, or class of contract, that the Minister has specified in the conditions of the licence because it involves the public interest.

**74Q Notice of proposed relevant contracts or variations of relevant contracts to be given**

- (1) This clause applies only to relevant contracts that the conditions of a licence require to be notified to the Minister and so applies in respect of:
  - (a) such relevant contracts that are entered into after the commencement of this clause, and
  - (b) variations of such relevant contracts, whether the contracts were entered into before or after that commencement.
- (2) A licensee must not enter into or become a party to a relevant contract, or the variation of a relevant contract, to which this clause applies until the licensee has given the Minister written notice of the details of the proposed contract or variation of contract that are specified in the conditions of the licence and the investigation time that the Minister is allowed by this clause has elapsed.
- (3) The notice must be accompanied by the fee (if any) specified by the conditions of the licence.
- (4) The Minister may object to the proposed contract or variation of contract by notice in writing given to the licensee during the investigation time that the Minister is allowed by this clause, in which case the licensee must not enter into or become a party to the contract or variation of contract.
- (5) The Minister is not required, despite any rule of law to the contrary, to give reasons for an objection made under subclause (4).
- (6) The Minister is allowed 28 days investigation time (starting from when the notice under subsection (2) is given to the Minister) but that time can be shortened or extended in a particular case by the Minister by notice in writing to the licensee.



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- (7) Investigation time is not to be extended unless the Minister is of the opinion that the special circumstances of the case (such as, for example, the complex nature of the inquiries that need to be made or the need to consult other persons or bodies) make the extension necessary or desirable and that public interest considerations justify the extension.
  - (8) Investigation time can be extended more than once but cannot in any case be extended to more than 6 months after the notice was given to the Minister.
  - (9) It is a condition of a licence that the licensee must comply with this clause.
  - (10) Failure to comply with this clause does not affect the validity of any contract or variation of contract.

**74R Notice to show cause why relevant contract should not be terminated**

- (1) The Minister may serve on each party to a relevant contract a notice in writing giving the party an opportunity to show cause within 14 days why the contract should not be terminated on the ground that it is not in the public interest for the contract to remain in force.
- (2) The notice is to specify the reasons why it is considered that it is not in the public interest for the contract to remain in force.
- (3) A party to the contract may, within the period specified in the notice, arrange with the Minister for the making of submissions as to why the contract should not be terminated.
- (4) The Minister may:
  - (a) after considering any submissions so made, or
  - (b) if no arrangements are made within the period specified in the notice, or no submissions are received in accordance with arrangements made,

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by notice in writing served on each party to the contract, require the contract to be terminated within a time specified in the notice.

- (5) If a contract is not terminated as required by a notice, it is terminated as and from the expiration of the time specified in the notice for the termination of the contract.
- (6) This clause applies to relevant contracts whether entered into before or after the commencement of this clause.

### **74S Effect of termination**

If a contract is terminated in accordance with this Division:

- (a) the termination does not affect a right acquired, or a liability incurred, before the termination by a person who was a party to the contract, as a result of the performance before the termination of any obligation imposed by the contract, and
- (b) no liability for breach of contract is, by reason only of that termination, incurred by a person who was a party to the contract, and
- (c) neither the State nor the Minister incurs any liability by reason of that termination.

### **74T Parties to terminated contract must not give effect to it**

A party to a contract terminated in accordance with this Division who gives further effect to the contract is guilty of an offence.

Maximum penalty: 50 penalty units.

### **74U Parties to contract may be required to provide information**

Clause 74G applies to a party to a relevant contract in the same way as it applies to a licensee.

**Division 4 Miscellaneous provisions****74V Investigations**

- (1) The Minister may appoint a person to investigate and report on matters and circumstances specified by the Minister relating to:
  - (a) the operation of an authorised CMS, or
  - (b) a licensee, or a person who, in the opinion of the Minister, is an associate of a licensee, or
  - (c) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could affect the operation of an authorised CMS, or
  - (d) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could be in a position to exercise direct or indirect control over a CMS licensee in relation to the operation of an authorised CMS.
- (2) A person appointed to carry out an investigation may, for the purpose of the investigation, exercise:
  - (a) the functions conferred by clause 74G on the Minister, and
  - (b) any other functions of the Minister specified by the Minister in the instrument of appointment.
- (3) The exercise of functions under this clause by a person other than the Minister has effect as if the functions had been exercised by the Minister.

**74W Unlawful interference with authorised CMS**

- (1) A person must not:
  - (a) possess any device or equipment made or adapted, or intended by the person to be used, for interfering with the normal operation of an authorised CMS, or

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- (b) do anything that is calculated, or is likely, to interfere with the normal operation of an authorised CMS.

Maximum penalty: 50 penalty units.

- (2) Subclause (1) does not apply to or in respect of the possession of any device or equipment, or to anything done in good faith, in connection with the installation, alteration, adjustment, maintenance or repair of an authorised CMS by:
  - (a) the licensee who is operating the authorised CMS, or
  - (b) a technician within the meaning of Part 5, or
  - (c) any other person approved by the licensee.
- (3) A person must not gain, whether personally or for another person, an advantage in the operation of a gaming device that is connected to an authorised CMS as the result of knowing about any faulty or fraudulent computer programming in relation to the CMS.
- (4) A person must not authorise or permit another person to act in a way that is an offence under another provision of this clause.

Maximum penalty (subclauses (3) and (4)): 50 penalty units.

#### **74X Illegal advantage with respect to authorised CMS**

- (1) A person must not, during the design, manufacture, assembly, installation, maintenance or repair of an authorised CMS, dishonestly make provision to gain an advantage (whether or not for another person) in the operation of the CMS.

Maximum penalty: 50 penalty units

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- (2) A person who, as a result of gross negligence during the design, manufacture, assembly, installation, maintenance or repair of an authorised CMS, makes provision to gain an advantage (whether or not for another person) in the operation of the CMS is guilty of an offence.  
Maximum penalty: 50 penalty units.
- (3) A person must not do anything to an authorised CMS in order to conceal anything that is an offence under subclause (1) or (2).  
Maximum penalty: 50 penalty units.
- (4) A person must not authorise or permit another person to act in a way that is an offence under another provision of this clause.  
Maximum penalty: 50 penalty units.

**74Y Removal of authorised CMS**

- (1) A person (including a registered club or hotelier) must not, without the consent of the Minister, remove, or cause to be removed, an authorised CMS that has been installed in any registered club, hotel or other premises.  
Maximum penalty: 50 penalty units.
- (2) Subclause (1) does not apply to:
- (a) the licensee who is operating the authorised CMS, or
  - (b) a person approved by the licensee to remove the CMS.

**[4] Part 9**

Insert after Part 8:

**Part 9 Inter-hotel linked gaming systems****Division 1 Preliminary****93 Operation of Part**

This Part takes effect on and from the date referred to in the definition of *exclusive licence period* in section 201 of the Act as the operative date for the purposes of Part 12 of the Act.

## **94 Interpretation**

Without limiting the generality of clause 3 (2), expressions used in this Part that are defined in Part 12 of the Act have the meanings set out in that Part.

## **Division 2 Approval of gaming devices**

### **95 Specially approved gaming devices**

A gaming device is a specially approved gaming device for the purposes of Part 12 of the Act if it is of a class of gaming devices that is approved by the Board in accordance with this Division.

### **96 Application for approval**

- (1) A person may apply to the Board for the Board's approval of a class of gaming devices for the purposes of Part 12 of the Act.
- (2) The Board may:
  - (a) investigate the application, or authorise its investigation, in order to determine whether the class of gaming devices is suitable for approval, and
  - (b) require the applicant to meet the costs of the investigation as determined by the Board.
- (3) This clause does not:
  - (a) confer a right to have a class of gaming devices investigated, or
  - (b) prevent the Board from terminating at its discretion an investigation of a class of gaming devices.

### **97 Approval process**

- (1) The Board may:
  - (a) approve a class of gaming devices for the purposes of Part 12 of the Act, or
  - (b) refuse to approve a class of gaming devices that is the subject of an application under clause 96.

- (2) The approval of a class of gaming devices may be an interim approval pending final determination of an application under clause 96.
- (3) Without affecting the Board's discretion, the Board may have regard to the following matters in determining whether or not to approve a class of gaming devices for the purposes of Part 12 of the Act:
  - (a) whether, in the opinion of the Board, the class of gaming devices concerned meets such technical standards as the Board considers necessary to ensure gaming integrity,
  - (b) any guidelines issued by the Board relating to linked gaming systems.

### **98 Revocation of approval**

- (1) The Board may revoke the approval of a class of gaming devices under this Division:
  - (a) if the Board considers that it should do so in the public interest, or
  - (b) if the Board is satisfied that any one of the gaming devices of the class so approved has been modified without the approval of the Board, or
  - (c) for such other reason as the Board thinks appropriate.
- (2) Subclause (1) (b) does not apply if, in the opinion of the Board, the modification is of a minor or insignificant nature and does not affect the gaming device's security or integrity or the manner in which the device was designed and programmed to function.
- (3) Revocation of the Board's approval of a class of gaming devices takes effect when written notice of the revocation is given to the licensee and participating clubs concerned. or on a later date specified in the notice.

### 99 Submissions by applicant

- (1) The Board may not:
  - (a) terminate the investigation of an application by a person for the Board's approval of a class of gaming devices for the purposes of Part 12 of the Act, or
  - (b) refuse any such application, or
  - (c) revoke the approval of any such class of gaming devices,unless this clause is complied with before it decides to do so.
- (2) The Board must serve on the applicant a notice in writing that:
  - (a) specifies the reasons why the Board is considering taking the action specified in the notice, and
  - (b) gives the applicant an opportunity to show cause within such period of at least 14 days as is specified in the notice why the Board should not take that action.
- (3) The applicant may, within the period allowed by the notice, arrange with the Board for the making of submissions to the Board as to why the proposed action should not be taken. The Board is to consider any such submissions.
- (4) After considering any submissions made by the applicant, or if no submissions are made, the Board may proceed with the proposed action, or refrain from taking the proposed action.
- (5) The Board's decision takes effect when written notice of its decision is given to the applicant, or on a later date specified in the notice.



### **Division 3      Supervision of operation of linked gaming system**

#### **100 Licensee to inform Minister of changed circumstances**

If a change of a kind specified in the Table to this clause occurs in the circumstances that existed in relation to a licensee at the time the licensee was granted the licence, the licensee must notify the Minister in writing, not later than 14 days after the change occurs, of the particulars relating to the change that are specified in the Table in respect of that kind of change.

#### **Table**

<b>Kinds of change</b>	<b>Particulars to be notified</b>
Any change in the name of the licensee, the licensee's principal business address or postal address, telephone number or facsimile number.	Particulars of those matters as changed.
Any change in the membership of the board of directors of the licensee.	Particulars of the name, address and date of birth of any new director.
Any change in the name or address of any member of the board of directors of the licensee.	Particulars of the new name or address of the director.
Any change in any direct or indirect financial interest held by the licensee in any business or enterprise, including the acquisition or disposal of such an interest.	Particulars of the interest both before and after the change.

#### **101 Minister may require information relating to licensees, participating hoteliers and other persons**

- (1) The Minister may, by notice in writing, require a licensee or participating hotelier, or a person who, in the opinion of the Minister, has a direct or indirect association with a licensee or participating hotelier:
  - (a) to provide the Minister or a special inspector, in accordance with directions in the notice, with the

- information relevant to the licensee, hotelier or that association that is specified in the notice, or
- (b) to produce to the Minister or a special inspector, in accordance with directions in the notice, the documents relevant to the licensee, hotelier or that association that are specified in the notice and to permit examination of the documents, the baking of extracts and notes from the documents, and the making of copies of them, or
  - (c) to attend before the Minister or a special inspector for examination in relation to any matters relevant to the licensee, the club or that association to answer any questions relating to those matters.
- (2) A person who fails to comply with a requirement of a notice under this clause is guilty of an offence.
- Maximum penalty: 50 penalty units.
- (3) A natural person is not excused from complying with a notice under this clause on the ground that compliance might tend to incriminate the person. However, if the person claims, before complying with the notice, that compliance might tend to incriminate the person, information provided in compliance with the notice is not admissible in evidence against the person in criminal proceedings other than proceedings under the Act.
- (4) If documents are produced under this clause, the Minister or special inspector to whom they are produced may retain possession of them for a reasonable period so that they may be examined and extracts taken from, or copies made of, them.
- (5) The Minister or special inspector must permit inspection of the documents, at any reasonable time during which they are retained under this clause, by a person who would be entitled to inspect them if they were not in the possession of the Minister or inspector.
- (6) A person who complies with a requirements of a notice under this clause does not on that account incur a liability to another person.

**102 Minister may require person to provide particulars concerning key employees**

- (1) The Minister may, by notice in writing served on a person, require the person to provide the Minister, within a reasonable time specified in the notice, with the following:
  - (a) the names of all persons who are key employees of the person,
  - (b) the positions held by, and the duties of, those employees,
  - (c) any other relevant particulars relating to those employees as are specified in the notice.
- (2) A person who fails to comply with a requirement of a notice under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

**103 Minister may require key employees to provide information**

- (1) The Minister may, by notice in writing served on a key employee, require the key employee:
  - (a) to consent, in accordance with directions in the notice, to having his or her photograph, finger prints and palm prints taken, and
  - (b) to provide, in accordance with directions in the notice, the information (verified by statutory declaration) relevant to the key employee that is specified in the notice, and
  - (c) to produce, in accordance with directions in the notice, the documents relevant to the key employee that are specified in the notice and to permit examination of the documents and the taking of extracts from, and the making of copies of, them, and
  - (d) to furnish the authorities and consent that the Minister may require for the purpose of obtaining further information (including financial and other confidential information) from other persons and institutions.

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- (2) The Minister is to refer to the Commissioner of Police copies of photographs, finger prints and palm prints obtained in respect of a key employee under this clause and with any supporting information that the Minister considers should be referred to the Commissioner.
- (3) The Commissioner of Police is to inquire into, and report to the Minister on, any matters concerning the key employee that the Minister may request.
- (4) A key employee is not excused from complying with a notice under this clause on the ground that compliance might tend to incriminate the employee. However, if the employee claims, before complying with the notice, that compliance might tend to incriminate the employee, information provided in compliance with the notice is not admissible in evidence against the employee in any criminal proceedings other than proceedings under the Act.
- (5) A key employee who complies with a requirement of a notice under this clause does not on that account incur a liability to another person.

#### **104 Failure of key employee to provide information**

- (1) The Minister may, if a key employee refuses or fails to comply with a requirement of a notice served on the key employee under clause 103, by notice in writing, direct the licensee or other person concerned to terminate immediately and not to renew the employment or arrangement by reason of which the key employee is a key employee of the licensee or other person.
- (2) A person who does not give effect to a direction given to the person under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

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**105 Power to terminate employment of key employee at Minister's direction**

- (1) This clause applies in respect of a direction given by the Minister under this Division to an employer to terminate the employment of a key employee or the other arrangement by reason of which a key employee is a key employee of the employer.
- (2) It is taken to be a condition of any agreement or other arrangement entered into between an employer and a key employee that the employer has the rights required to enable the employer to give effect to a direction to which this clause applies.
- (3) Any such termination of an employment or arrangement has effect accordingly, and the employer or the State does not incur any liability by reason of that termination.
- (4) In this clause, *employer* means a licensee or other person to whom a direction to which this clause applies is given.

**106 Destruction of finger and palm prints of former key employees**

- (1) Any finger prints or palm prints obtained under this Division, and any copies of them, are to be destroyed as soon as the key employee from whom they were obtained is no longer a key employee.
- (2) A person:
  - (a) who has possession of finger prints or palm prints obtained by the Minister under this Division, or copies of them, and
  - (b) who fails to deliver them to the Minister, in accordance with the written directions of the Minister, to enable subclause (1) to be complied with, is guilty of an offence.

Maximum penalty (subclause (2)): 20 penalty units.

**107 Prejudice to integrity of operation of linked gaming system**

- (1) The Minister may give a direction under this clause if the Minister is of the opinion that the integrity or apparent integrity of an authorised linked gaming system operated by a licensee is likely to be seriously prejudiced because of:
  - (a) any irregularity or alleged irregularity of any kind, or
  - (b) the character or reputation of any person concerned in the operation of the authorised linked gaming system, or
  - (c) any other fact or circumstance reported to the Minister.
- (2) The Minister may, for the purpose of avoiding the prejudice referred to in this clause, by notice in writing, direct a licensee, participating hotelier or key employee to take (or to refrain from taking) any action specified in the notice in relation to the operation of the linked gaming system.
- (3) A person who does not comply with a direction given to the person under this clause is guilty of an offence.

Maximum penalty (subclause (3)): 50 penalty units.

**108 Minister may direct licensee to terminate certain contractual arrangements**

- (1) If a person who is a contractor of a licensee does not comply with a direction given to the person under clause 107, the Minister may, by notice in writing, direct the licensee to terminate, within a time specified in the notice, the contract or other arrangement under which the person is a contractor of the licensee.
- (2) A licensee who does not comply with a notice given to the licensee under this clause is guilty of an offence.

Maximum penalty: 50 penalty units.

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- (3) It is taken to be a condition of any contract or other arrangement entered into between a licensee and a contractor that the licensee has the rights required to enable the licensee to give effect to a direction to which this clause applies.
- (4) Any such termination of a contract or other arrangement has effect accordingly, and neither the State nor the Minister incurs any liability by reason of that termination.
- (5) The Minister may exempt specified contracts or other arrangements or specified classes of contracts or other arrangements from the operation of this clause. The effect of such an exemption is that a contract or other arrangement to which the exemption applies cannot be the subject of a direction under this section.
- (6) In this clause:
- contractor* means a person who, under a contract or other arrangement with a licensee, performs any service in connection with the operation of an authorised linked gaming system (whether or not the service is performed for fee, gain or reward) and includes an employee of the licensee and an agent of the licensee.

**109 Prejudice to integrity of authorised linked gaming system involving key employee**

- (1) The Minister may give a direction under this clause if the Minister is of the opinion that the integrity or apparent integrity of an authorised linked gaming system operated by a licensee is likely to be seriously prejudiced because of:
- (a) the criminal record of a key employee, or
  - (b) the character or reputation of a key employee.
- (2) The Minister may, by notice in writing, direct:
- (a) the licensee, or
  - (b) a contractor within the meaning of clause 108, or
  - (c) any other appropriate person,

to terminate immediately and not to renew the employment or arrangement by reason of which the key employee is a key employee of the licensee, contractor or other person.

- (3) A person who does not comply with a direction given to the person under this clause is guilty of an offence.  
Maximum penalty (subclause (3)): 50 penalty units.

**Division 4 Notification control and termination of certain Contracts relating to linked gaming systems**

**110 Definitions**

In this Division:

*contract* includes any kind of agreement or arrangement.

*relevant contract* means a contract relating to the supply of goods or services to a licensee or participating hotelier in connection with the operation of an authorised linked gaming system and that is:

- (a) for the purchase or servicing (or both) of any gaming device or equipment used in connection with the linked gaming system or the security arrangements in relation to the operation of the linked gaming system, or
- (b) for a total consideration of more than \$1,000,000, or
- (c) a contract, or class of contract, that the Minister has specified in the conditions of the licence because it involves the public interest.

**111 Notice of proposed relevant contracts or variations of relevant contracts to be given**

- (1) This clause applies only to relevant contracts that the conditions of a licence require to be notified to the Minister and so applies in respect of:
- (a) such relevant contracts that are entered into after the commencement of this clause, and
  - (b) variations of such relevant contracts, whether the contracts were entered into before or after that commencement.



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- (2) A licensee or participating hotelier must not enter into or become a party to a relevant contract, or the variation of a relevant contract, to which this clause applies until the licensee or hotelier has given the Minister written notice of the details of the proposed contract or variation of contract that are specified in the conditions of a licence and the investigation time that the Minister is allowed by this clause has elapsed.
  - (3) The notice must be accompanied by the fee (if any) specified by the conditions of the licence.
  - (4) The Minister may object to the proposed contract or variation of contract by notice in writing given to the licensee or participating hotelier during the investigation time that the Minister is allowed by this clause, in which case the licensee or hotelier must not enter into or become a party to the contract or variation of contract.
  - (5) The Minister is not required, despite any rule of law to the contrary, to give reasons for an objection made under subclause (4).
  - (6) The Minister is allowed 28 days investigation time (starting from when the notice under subsection (2) is given to the Minister) but that time can be shortened or extended in a particular case by the Minister by notice in writing to the licensee or participating hotelier.
  - (7) Investigation time is not to be extended unless the Minister is of the opinion that the special circumstances of the case (such as, for example, the complex nature of the inquiries that need to be made or the need to consult other persons or bodies) make the extension necessary or desirable and that public interest considerations justify the extension.
  - (8) Investigation time can be extended more than once but cannot in any case be extended to more than 6 months after the notice was given to the Minister.
  - (9) It is a condition of a licence that the licensee must comply with this clause.

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- (10) The licence of a participating hotelier is subject to the condition that the hotelier complies with this clause.
- (11) Failure to comply with this clause does not affect the validity of any contract or variation of contract.

### **112 Notice to show cause why relevant contract should not be terminated**

- (1) The Minister may serve on each party to a relevant contract a notice in writing giving the party an opportunity to show cause within 14 days why the contract should not be terminated on the ground that it is not in the public interest for the contract to remain in force.
- (2) The notice is to specify the reasons why it is considered that it is not in the public interest for the contract to remain in force.
- (3) A party to the contract may, within the period specified in the notice, arrange with the Minister for the making of submissions as to why the contract should not be terminated.
- (4) The Minister may:
  - (a) after considering any submissions so made, or
  - (b) if no arrangements are made within the period specified in the notice, or no submissions are received in accordance with arrangements made,by notice in writing served on each party to the contract, require the contract to be terminated within a time specified in the notice.
- (5) If a contract is not terminated as required by a notice, it is terminated as and from the expiration of the time specified in the notice for the termination of the contract.
- (6) This clause applies to relevant contracts whether entered into before or after the commencement of this clause.

**113 Effect of termination**

If a contract is terminated in accordance with this Division:

- (a) the termination does not affect a right acquired, or a liability incurred, before the termination by a person who was a party to the contract, as a result of the performance before the termination of any obligation imposed by the contract, and
- (b) no liability for breach of contract is, by reason only of that termination, incurred by a person who was a party to the contract, and
- (c) neither the State nor the Minister incurs any liability by reason of that termination.

**114 Parties to terminated contract must not give effect to it**

A party to a contract terminated in accordance with this Division who gives further effect to the contract is guilty of an offence.

Maximum penalty: 50 penalty units.

**115 Parties to contract may be required to provide information**

Clause 101 applies to a party to a relevant contract in the same way as it applies to a licensee.

**Division 5 Miscellaneous provisions****116 Investigations**

- (1) The Minister may appoint a person to investigate and report on matters and circumstances specified by the Minister relating to:
  - (a) the operation of an authorised linked gaming system, or
  - (b) a licensee, participating hotelier or a person who, in the opinion of the Minister, is an associate of a licensee or participating hotelier, or

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- (c) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could affect the operation of an authorised linked gaming system, or
  - (d) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could be in a position to exercise direct or indirect control over a licensee or participating hotelier in relation to the operation of an authorised linked gaming system.
- (2) A person appointed to carry out an investigation may, for the purpose of the investigation, exercise:
- (a) the functions conferred by clause 101 on the Minister, and
  - (b) any other functions of the Minister specified by the Minister in the instrument of appointment.
- (3) The exercise of functions under this clause by a person other than the Minister has effect as if the functions had been exercised by the Minister.

#### **117 Unlawful interference with linked gaming systems**

- (1) A person must not:
- (a) possess any equipment that is made or adapted, or intended by the person to be used, for interfering with the normal operation of an authorised linked gaming system (including any gaming device that is part of the system), or
  - (b) do anything calculated, or likely, to interfere with the normal operation of an authorised linked gaming system (including any gaming device that is part of the system), or
  - (c) do anything calculated to render a gaming device that is part of an authorised linked gaming system incapable, even temporarily, of producing a winning combination.

Maximum penalty: 50 penalty units.

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- (2) Subclause (1) does not apply to or in respect of the possession of any equipment, or to anything done in good faith, in connection with the installation, alteration, adjustment, maintenance or repair of an authorised linked gaming system by:
- (a) the licensee who is operating the authorised linked gaming system, or
  - (b) a technician within the meaning of Part 5, or
  - (c) any other person approved by the licensee.
- (3) A person must not, with intent to dishonestly obtain money or a financial advantage for himself or herself or another person, insert in a gaming device that is part of an authorised linked gaming system anything other than:
- (a) a coin or token of the denomination or type displayed on the gaming device as that to be used to operate the device, or
  - (b) a banknote of a denomination approved by the Board for use in order to operate the gaming device, or
  - (c) a card of a type approved by the Board for use in order to operate the gaming device.
- (4) A person must not gain, whether personally or for another person, an advantage in the operation of a gaming device that is part of an authorised linked gaming system as the result of knowing about any faulty or fraudulent computer programming in relation to the system.
- (5) A person must not authorise or permit another person to act in a way that is an offence under another provision of this clause.

Maximum penalty (subclauses (3)–(5)):50 penalty units.

**118 Illegal advantage with respect to linked gaming systems**

- (1) A person must not, during the design, manufacture, assembly, installation, maintenance or repair of an authorised linked gaming system, dishonestly make provision to gain an advantage (whether or not for another person) in the operation of the linked gaming system.

Maximum penalty: 50 penalty units.

- (2) A person who, as a result of gross negligence during the design, manufacture, assembly, installation, maintenance or repair of an authorised linked gaming system, makes provision to gain an advantage (whether or not for another person) in the operation of the linked gaming system is guilty of an offence.

Maximum penalty: 50 penalty units.

- (3) A person must not do anything to an authorised linked gaming system in order to conceal anything that is an offence under subclause (1) or (2).

Maximum penalty: 50 penalty units.

- (4) A person must not authorise or permit another person to act in a way that is an offence under another provision of this clause.

Maximum penalty: 50 penalty units.

**119 Removal of linked gaming system from hotel**

- (1) A person (including a participating hotelier) must not, without the consent of the Minister, remove, or cause to be removed, an authorised linked gaming system that has been installed in a hotel.

Maximum penalty: 50 penalty units.

- (2) Subclause (1) does not apply to:

- (a) the licensee who is operating the authorised linked gaming system, or
- (b) a person approved by the licensee to remove the linked gaming system.