



New South Wales

Gaming Machines Act 2001 No 127

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New South Wales

Gaming Machines Act 2001 No 127

Act No 127, 2001

An Act to provide for the regulation, control and management of gaming machines in hotels and registered clubs and for related purposes; to amend the *Liquor Act 1982*, the *Registered Clubs Act 1976*, the *Casino Control Act 1992* and certain other Acts with respect to gaming machines and other matters; and for other purposes. [Assented to 19 December 2001]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Gaming Machines Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Objects of gambling harm minimisation and responsible conduct in relation to gaming machines

- (1) A primary object of this Act is gambling harm minimisation, namely:
 - (a) the minimisation of harm associated with the misuse and abuse of gambling activities involving approved gaming machines in hotels and registered clubs, and
 - (b) the fostering of responsible conduct in relation to the keeping and operation of approved gaming machines in hotels and registered clubs.
- (2) The Licensing Court, the Board, the Minister, the Director-General, the Director, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for gambling harm minimisation when exercising functions under this Act.
- (3) In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

4 Definitions

- (1) In this Act:

adviser's licence means a gaming machine adviser's licence in force under Part 7.

approved amusement device means a device declared under section 64 to be an approved amusement device and includes:

- (a) any subsidiary equipment approved by the Board for use in connection with the device, and

- (b) any component of the device (other than a component prescribed by the regulations as not being part of the device).

approved gaming machine means an approved poker machine or an approved amusement device.

approved poker machine means a poker machine declared under section 64 to be an approved poker machine and includes:

- (a) any subsidiary equipment approved by the Board for use in connection with the poker machine, and
- (b) any component of the poker machine (other than a component prescribed by the regulations as not being part of the poker machine).

authorised CMS means a CMS that is operated under the authority of a CMS licence.

authorised linked gaming system means:

- (a) an authorised inter-hotel linked gaming system within the meaning of Part 10, or
- (b) an authorised inter-club linked gaming system within the meaning of that Part.

Board means the Liquor Administration Board constituted by section 72 of the *Liquor Act 1982*.

centralised cash control equipment means any equipment or system by means of which, in return for a cash payment made to a hotelier or registered club, the operation of an approved gaming machine kept in the hotel or club may, without the insertion of money, be commenced and, at least to the extent of the cash payment, continued.

centralised monitoring system (or **CMS**) means a system that:

- (a) monitors the operation and performance of approved gaming machines, and
- (b) facilitates the calculation and collection of tax under the *Gaming Machine Tax Act 2001* that is payable in respect of approved gaming machines, and
- (c) is capable of performing other related functions.

CMS—see **centralised monitoring system**.

close associate—see section 5.

CMS licence means a licence in force under Part 9, and **CMS licensee** means the holder of a CMS licence.

country hotel means a hotel that is not situated in a metropolitan area.

dealer's licence means a gaming machine dealer's licence in force under Part 7.

Director means the Director of Liquor and Gaming appointed as provided by section 6A of the *Liquor Act 1982*.

Director-General means the Director-General of the Department of Gaming and Racing.

exercise a function includes perform a duty.

financial institution means:

- (a) a banking business within the meaning 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.

function includes a power, authority or duty.

gaming machine area of a registered club means any part of the club in which approved gaming machines are located and which is not physically separated from any other part of the club.

gaming-related licence means any of the following types of licences in force under Part 7:

- (a) a dealer's licence,
- (b) a seller's licence,
- (c) a technician's licence,
- (d) an adviser's licence,
- (e) a testing facility licence.

hardship gaming machine means an approved gaming machine approved to be kept in a hotel or registered club under Division 3 of Part 3.

hotel, hotelier and **hotelier's licence** have the same meanings as in the *Liquor Act 1982*.

investment licence means a licence in force under Part 11.

keep an approved gaming machine includes acquire or possess the gaming machine.

large-scale club means a registered club that was, immediately before the commencement of Part 2, authorised under the *Registered Clubs Act 1976* to keep more than 450 approved gaming machines on any of the club's premises (referred to in this Act as the **large-scale club's relevant premises**).

Licensing Court means the Licensing Court of New South Wales constituted in accordance with the *Liquor Act 1982*.

links licence means an inter-hotel links licence or inter-club links licence in force under Part 10.

liquor has the same meaning as in the *Liquor Act 1982*.

Liquor Act poker machine permit means a permit issued under section 182C of the *Liquor Act 1982* and in force immediately before the repeal of that section by this Act.

manager in relation to a hotel has the same meaning as in the *Liquor Act 1982*.

metropolitan area means:

- (a) any of the following areas as determined by the Australian Bureau of Statistics:
 - (i) the Sydney Statistical Division,
 - (ii) the Statistical Local Areas of Newcastle (Statistical Local Areas 5901 and 5902),
 - (iii) the Statistical Local Area of Lake Macquarie (Statistical Local Area 4650),
 - (iv) the Statistical Local Area of Wollongong (Statistical Local Area 8450), or
- (b) if a regulation is made for the purposes of this definition, any area described in the regulation as a metropolitan area.

new club means a club that became or becomes registered for the first time under the *Registered Clubs Act 1976* on or after 26 July 2001 other than as the result of an amalgamation under section 17A of that Act.

new hotel means a hotel:

- (a) that became or becomes licensed for the first time under the *Liquor Act 1982* on or after 26 July 2001, or

- (b) in respect of which the licence under the *Liquor Act 1982* was or is removed after that date to other premises (whether or not those other premises are outside the neighbourhood of the previous premises).

operate an approved gaming machine includes use or play the gaming machine.

poker machine means a device that is designed:

- (a) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill, and
- (b) for paying out money or tokens or for registering a right to an amount of money or money's worth to be paid,

and includes any subsidiary equipment.

poker machine entitlement means a poker machine entitlement allocated under Part 3.

primary purpose test in respect of a hotel—see section 6.

Principal Registrar has the same meaning as in the *Liquor Act 1982*.

registered club has the same meaning as in the *Registered Clubs Act 1976*.

registrar has the same meaning as in the *Liquor Act 1982*.

sell includes any of the following:

- (a) barter or exchange,
- (b) offer, agree or attempt to sell,
- (c) expose, send, forward or deliver for sale,
- (d) cause or permit to be sold or offered for sale,
- (e) in relation to an approved gaming machine—supply under financial and other arrangements approved by the Board.

seller's licence means a gaming machine seller's licence in force under Part 7.

special inspector means an inspector (including the Director) holding office under section 109 of the *Liquor Act 1982*.

subsidiary equipment means:

- (a) centralised cash control equipment, or

- (b) any equipment or system designed for use in connection with the operation of a poker machine or approved amusement device.

TAB means the company known as TAB Limited established by the *Totalizator Agency Board Privatisation Act 1997*, and a **subsidiary** of TAB means a body corporate that is a subsidiary of TAB by virtue of Division 6 of Part 1.2 of the *Corporations Act 2001* of the Commonwealth.

technician's licence means a gaming machine technician's licence in force under Part 7.

testing facility licence means a gaming machine testing facility licence in force under Part 7.

work permit means a work permit issued under section 89.

- (2) Notes included in this Act do not form part of this Act.

5 Meaning of "close associate"

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for a gaming-related licence or the holder of a gaming-related licence (**the 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 Licensing Court or the Director) 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) For the purposes of this Act, a person is a **close associate** of a hotelier 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 hotel, and by virtue of that interest or power is or will be able (in the opinion of the Licensing Court or the Director) 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 that is or will be carried on under the authority of the hotelier's licence.

- (3) In this section:

relevant financial interest in 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 an entitlement of the owner of the 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.

- (4) 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.

6 Primary purpose test in respect of hotels

For the purposes of this Act, the following provisions (referred to in this Act as the ***primary purpose test***) apply in relation to hotels:

- (a) the primary purpose of the business conducted in a hotel is to be the sale of liquor by retail,
- (b) the keeping or operation of approved gaming machines in a hotel is not to detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.

7 Lawful keeping and operation of gaming machines

Despite anything in the *Lotteries and Art Unions Act 1901*, the *Unlawful Gambling Act 1998* or any other Act or law (other than this Act), it is lawful:

- (a) to keep or operate an approved gaming machine in a hotel or registered club, and
- (b) to pay or present prizes and bonuses won as a direct or indirect consequence of operating the approved gaming machine,

if the approved gaming machine is kept or operated, and the prizes and bonuses are paid or presented, in accordance with this Act.

8 Gaming machines not used for purposes of gambling

- (1) Nothing in this Act prohibits the keeping or operation of a poker machine or a device that is in the nature of an approved amusement device if:
 - (a) the poker machine or device is not used for the purposes of gambling, and
 - (b) the poker machine or device is used only for such therapeutic purposes as may be approved by the Board in writing before the machine or device is so used, and
 - (c) any conditions imposed by the Board when giving the approval are complied with.
- (2) Nothing in this Act prohibits the keeping or operation of a poker machine or a device that is in the nature of an approved amusement device if:
 - (a) the poker machine or device is not used for the purposes of gambling, and

- (b) the poker machine or device is used only for educational or cultural purposes or for the purpose of promoting the machine or device (but not for the purpose of promoting other goods or services), and
 - (c) the Board has been given at least 3 days written notice of the kind of use intended and the Board has not, within the 3-day period, refused to allow the use, and
 - (d) any conditions imposed by the Board within that period are complied with.
- (3) In a particular case or a particular class of cases, the Board may waive compliance with the requirement for giving notice under subsection (2) and may impose conditions for operation of the waiver.

9 Subsidiary equipment not included in calculation of gaming machine numbers

In calculating (for the purposes of this Act) the number of approved gaming machines in a hotel or registered club, any subsidiary equipment:

- (a) kept in the hotel or club, and
- (b) approved by the Board for use in connection with such gaming machines,

is to be disregarded.

Part 2 Limitations on gaming machine numbers

10 Overall State cap on number of gaming machines

- (1) The maximum number of approved gaming machines that the Board may authorise to be kept in all hotels and registered clubs in the State is 104,000 (*the overall State cap*).
- (2) The overall State cap comprises:
 - (a) a maximum number of 25,980 approved gaming machines in respect of hotels, and
 - (b) a maximum number of 78,020 approved gaming machines in respect of registered clubs.

11 Limit on number of gaming machines in hotels

The maximum number of approved gaming machines that the Board may authorise under Part 5 to be kept in any one hotel is 30.

12 Limit on number of gaming machines in clubs

- (1) The maximum number of approved gaming machines that the Board may authorise under Part 5 to be kept on any of the premises of a registered club is 450.
- (2) The limit of 450 approved gaming machines per premises of a registered club does not apply to a large-scale club's relevant premises.

13 Large-scale clubs required to reduce number of gaming machines

- (1) A large-scale club must, before the end of the period of 5 years following the date on which this Part commences, reduce the number of approved gaming machines that the club was, under the *Registered Clubs Act 1976*, authorised to keep on the relevant premises immediately before that date:
 - (a) by 10%, or
 - (b) by such number as would result in the number of approved gaming machines on those premises not exceeding 450.
- (2) The regulations may:
 - (a) specify the relevant premises of the large-scale clubs in respect of which the requirement under subsection (1) applies, and

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Part 2 Limitations on gaming machine numbers

- (b) determine the manner in which the required reduction in the number of approved gaming machines on those premises is to be achieved, including the disposing of approved gaming machines on an annual basis or on a pro-rata basis as between the clubs concerned, and
- (c) authorise the Board to direct a large-scale club to dispose of a specified number of approved gaming machines in order for the club to comply with the requirement under subsection (1), and
- (d) make provision for any other matter in relation to the requirement under subsection (1).

Part 3 Poker machine entitlements and hardship gaming machines

Division 1 Preliminary

14 General provisions

- (1) The allocation of poker machine entitlements and the approval to keep hardship gaming machines under this Part:
 - (a) are subject to the overall State cap, and
 - (b) do not affect the requirement under Part 5 for the Board's authorisation to keep approved gaming machines in a hotel or registered club.
- (2) Accordingly, the Board cannot allocate a poker machine entitlement or approve the keeping of a hardship gaming machine if the allocation or approval would:
 - (a) result in the overall State cap being breached, or
 - (b) exceed the total number of approved gaming machines authorised under Part 5 to be kept in the hotel or registered club concerned.
- (3) The administrative arrangements that may be approved by the Director-General for the purposes of this Part include the setting up of a forfeiture pool (one each for hotels and registered clubs) in respect of the poker machine entitlements and hardship gaming machines that are forfeited to the Board under this Part.

Division 2 Tradeable poker machine entitlement scheme

15 Initial allocation of poker machine entitlements

- (1) On the commencement of this section, one poker machine entitlement is to be allocated by the Board:
 - (a) for each approved poker machine that comprises the frozen number of approved poker machines for a hotel, and

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- (b) for each approved poker machine that comprises the frozen number of approved poker machines for the premises of a registered club.
- (2) The poker machine entitlements are to be allocated:
 - (a) in the case of a hotel—in respect of the hotelier’s licence, or
 - (b) in the case of the premises of a registered club—in respect of those premises,
 and are to be allocated in accordance with such arrangements as may be approved by the Director-General.
- (3) For the purposes of subsection (1) (a), the **frozen number** of approved poker machines for a hotel is the number that is determined by the Board after taking into account:
 - (a) the number of poker machines authorised to be kept in the hotel under the *Liquor Act 1982* as at 19 April 2001, and
 - (b) any increase in that number after that date and before the commencement of this section that has been authorised by the Board.
- (4) In determining the frozen number of approved gaming machines for a hotel, the Board is to disregard any poker machine for which a Liquor Act poker machine permit is held.
- (5) For the purposes of subsection (1) (b), the **frozen number** of approved poker machines for the premises of a registered club is the number that is determined by the Board after taking into account:
 - (a) the number of poker machines authorised to be kept on those premises under the *Registered Clubs Act 1976* as at 28 March 2000, and
 - (b) any increase in that number after that date and before the commencement of this section that has been authorised by the Board.

16 Further allocation of poker machine entitlements and certificate of entitlements

- (1) Following the initial allocation of poker machine entitlements under section 15, poker machine entitlements may, in accordance with this Act and such arrangements as may be approved by the Director-General, be allocated by the Board from time to time in respect of hoteliers' licences or the premises of a registered club.
- (2) The number of poker machine entitlements allocated from time to time in respect of a hotelier's licence or the premises of a registered club, along with the corresponding number of approved poker machines authorised under Part 5 to be kept in the hotel or on those premises in accordance with those poker machine entitlements, is to be specified in a certificate issued by the Board to the hotelier or club concerned.

17 Allocation of poker machine entitlements in respect of certain clubs

- (1) This section applies to the following:
 - (a) a registered club that is a new club,
 - (b) a registered club that acquires additional premises under section 19A of the *Registered Clubs Act 1976*,
 - (c) a registered club that, immediately before the commencement of this section, was authorised under the *Registered Clubs Act 1976* to keep less than 10 approved poker machines on any of its premises.
- (2) The Board may, on application by a registered club to which this section applies, allocate in respect of the club's premises as referred to in subsection (1) such number of poker machine entitlements as would bring to 10 the number of poker machine entitlements allocated for the time being for those premises. Any such application may be made only once in respect of the premises concerned.
- (3) A poker machine entitlement allocated in respect of the premises of a registered club under this section cannot be transferred during the period of 3 years immediately following the date on which it was allocated.

18 General restrictions on allocation of poker machine entitlements

- (1) A poker machine entitlement cannot be allocated in relation to an approved poker machine for which a Liquor Act poker machine permit is held.

- (2) A poker machine entitlement cannot be allocated in relation to an approved gaming machine unless the keeping of the approved gaming machine is authorised by the Board under Part 5.
- (3) A poker machine entitlement cannot be allocated in relation to a hardship gaming machine until after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machine was approved to be kept in the hotel or on the premises of the club concerned.

Note. Section 31 provides that a hotelier or club may apply for a poker machine entitlement in relation to a hardship gaming machine only after the period of 3 years following the approval of the keeping of the hardship gaming machine.

19 Transfer of poker machine entitlements

- (1) A poker machine entitlement allocated in respect of a hotelier's licence or the premises of a registered club is transferable.
- (2) The transfer of a poker machine entitlement does not have any effect unless the transfer:
 - (a) is approved by the Board, and
 - (b) complies with the requirements of this Division and any requirements specified in the regulations.
- (3) An application for the Board's approval of the transfer of a poker machine entitlement must:
 - (a) be accompanied by the fee (if any) prescribed by the regulations, and
 - (b) be accompanied by such particulars or other matter as may be required by the Board in relation to the proposed transfer, and
 - (c) in the case of an application for the transfer of an entitlement allocated in respect of a hotelier's licence—demonstrate, to the satisfaction of the Board, that the proposed transfer is supported by each person who, in the opinion of the Board, has a financial interest in the hotelier's licence, and
 - (d) be in the form and manner determined by the Board from time to time.
- (4) If a poker machine entitlement is transferred to another hotelier's licence or premises of a registered club in accordance with this Division, the transferred entitlement is, for the purposes of this Division, taken to have been allocated by the Board in respect of the other hotelier's licence or club premises.

- (5) For the purposes of subsection (3) (c), a person is taken to have a financial interest in a hotelier's licence if the person is entitled to receive any income derived from the business carried on under the authority of the licence 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).

20 General requirements relating to transfer of poker machine entitlements

- (1) Poker machine entitlements allocated in respect of a hotelier's licence may be transferred only to another hotelier's licence.
- (2) Poker machine entitlements allocated in respect of the premises of a registered club may be transferred only:
- (a) to another set of the club's premises, or
 - (b) to the premises of another registered club.
- (3) Subject to this Act, the following requirements apply to the transfer of poker machine entitlements:
- (a) a transfer must comprise one or more blocks of 3 poker machine entitlements,
 - (b) from each such block of 3 poker machine entitlements, one of the entitlements must be forfeited to the Board.
- (4) A block of 3 poker machine entitlements may comprise entitlements that have been allocated in respect of more than one hotelier's licence or more than one set of club premises.
- (5) Despite subsection (3), one poker machine entitlement allocated in respect of a hotelier's licence that is held in relation to a country hotel (the *transferring hotel*) may be transferred in any period of 12 months without the requirements of that subsection applying to the transfer if:
- (a) the transfer is to another hotelier's licence that is held in relation to a country hotel, and
 - (b) the number of approved gaming machines that are authorised to be kept in the transferring hotel does not exceed 8.
- (6) Subsection (3) continues to apply in respect of any subsequent transfer, in any period of 12 months, of poker machine entitlements allocated in respect of a hotelier's licence of a transferring hotel as referred to in subsection (5).

- (7) If the Board approves the transfer of poker machine entitlements, the Board is to vary the authorisation under Part 5 of both the transferor and transferee to keep approved poker machines.

21 Other provisions relating to transferring of poker machine entitlements

- (1) In the case of a hotelier's licence that is held in relation to a country hotel, no more than one block of poker machine entitlements allocated in respect of the licence may, in any one calendar year, be transferred to a hotelier's licence held in relation to a hotel that is situated in a metropolitan area.
- (2) If, in the case of a registered club that has more than one set of premises or that establishes new or additional premises, poker machine entitlements allocated in respect of one of those sets of premises (*the transferring premises*) are transferred to another set of the club's premises, the forfeiture to the Board of one entitlement for every 2 that are transferred is required unless the other set of premises is situated within 1 kilometre of the transferring premises.
- (3) If a registered club establishes new or additional premises (*the new premises*) and poker machine entitlements allocated in respect of any of the club's other premises are transferred to the new premises, the forfeiture to the Board of one poker machine entitlement for every 2 that are transferred is required unless the new premises are situated within 1 kilometre of the other premises.
- (4) If for the time being the number of poker machine entitlements allocated in respect of the premises of a registered club is 10 or less (*the remaining entitlements*), the club cannot transfer any of those remaining entitlements unless the transfer has been approved in principle at an extraordinary general meeting of the ordinary members of the club (being an approval supported by a majority of the votes cast at the meeting).
- (5) If a liquidator has been appointed for a registered club and any poker machine entitlements allocated in respect of any of the premises of the club are proposed to be transferred, the forfeiture to the Board of one entitlement for every 2 that are transferred is required.

- (6) If a registered club (*the former club*) amalgamates with another registered club (*the amalgamated club*) under the *Registered Clubs Act 1976*, any poker machine entitlements allocated in respect of any of the premises of the former club are taken to be transferred to the amalgamated club without the forfeiture of any entitlement to the Board.

22 Hoteliers may exchange authorisation to keep approved amusement devices for poker machine entitlements

- (1) The Board may, on application by a hotelier, allocate in respect of the hotelier's licence:
- (a) in the case of a hotel situated in a metropolitan area—one poker machine entitlement in exchange for the hotelier surrendering to the Board the authorisation under Part 5 to keep 3 approved amusement devices, and
 - (b) in the case of a country hotel—one poker machine entitlement in exchange for the hotelier surrendering to the Board the authorisation under Part 5 to keep 2 approved amusement devices.
- (2) A poker machine entitlement allocated under this section in respect of a hotelier's licence cannot be transferred during the period of 3 years following the date on which it was allocated.

23 Transfer of poker machine entitlements when hotelier's licence cancelled or surrendered

- (1) If a hotelier's licence or a hotelier's authorisation under Part 5 to keep approved poker machines is surrendered or cancelled, any poker machine entitlements allocated in respect of the licence concerned may be transferred in any number so long as one entitlement for every 2 is forfeited to the Board.
- (2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the hotelier's licence or authorisation under Part 5, any such poker machine entitlements have not been transferred, the remaining entitlements are automatically forfeited to the Board.
- (3) This section does not apply merely because:
- (a) the hotelier's licence or authorisation under Part 5 to keep approved gaming machines is suspended, or

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- (b) the hotel has, for the time being, ceased to trade.

24 Transfer of poker machine entitlements when club registration cancelled or surrendered

- (1) If the certificate of registration of a club or a registered club's authorisation under Part 5 to keep approved gaming machines is surrendered or cancelled, any poker machine entitlements allocated in respect of any of the premises of the club may be transferred in any number so long as one entitlement for every 2 is forfeited to the Board.
- (2) Any such poker machine entitlements that have not been transferred 12 months after the surrender or cancellation of the certificate of registration or the authorisation under Part 5 to keep approved gaming machines are automatically forfeited to the Board.
- (3) This section does not apply:
- (a) in relation to the cancellation of a club's certificate of registration if that cancellation is the result of an amalgamation with another registered club in accordance with the *Registered Clubs Act 1976*, or
- (b) merely because:
- (i) the certificate of registration of the club concerned, or its authorisation under Part 5 to keep approved gaming machines, is suspended, or
- (ii) the club has, for the time being, ceased to trade.

25 Requirement to forfeit poker machine entitlements if hotelier's licence is removed to other premises

Subject to the regulations, if:

- (a) a hotelier's licence is removed under the *Liquor Act 1982* to other premises that are situated more than 1 kilometre from the previous premises, and
- (b) the approved poker machines for which poker machine entitlements have been allocated are to be installed in those other premises,

the hotelier must forfeit to the Board one poker machine entitlement for every 2 allocated in respect of the hotelier's licence.

Division 3 Hardship gaming machines

26 Application for additional gaming machines on special grounds

- (1) A hotelier or registered club may apply to the Board for approval to keep an additional number of approved gaming machines to the number kept in the hotel or on any of the club's premises as at the commencement of this section. Such an application is referred to as a *hardship application*.
- (2) A hardship application:
 - (a) is to be in the form and manner approved by the Director-General, and
 - (b) is to be dealt with in accordance with such arrangements as may be approved by the Director-General, and
 - (c) may only be made within the period of 3 months (or such longer period as may be prescribed by the regulations) following the commencement of this section, and
 - (d) is otherwise subject to this Division.

27 Hardship applications by hoteliers

- (1) Despite any other provision of this section, only those hoteliers who were, as at 19 April 2001, authorised under the *Liquor Act 1982* to keep less than 15 approved poker machines are entitled to make a hardship application.
- (2) A hotelier may make a hardship application if:
 - (a) the hotelier:
 - (i) made an application to the Board under the *Liquor Act 1982*, on or before 19 April 2001, to keep an additional number of approved gaming machines and the application was not dealt with by the Board as at the commencement of this section, or
 - (ii) made such an application between 1 March 2001 and 19 April 2001 and the application was refused by the Board, or

- (b) the hotelier:
 - (i) obtained, on or before 19 April 2001, a conditional grant under the *Liquor Act 1982* for a new or removed hotelier's licence, but which was not finally granted by that date, or
 - (ii) obtained, after that date, a conditional grant under the *Liquor Act 1982* for a new or removed hotelier's licence and the Director-General is of the opinion that the conditional grant supersedes or replaces a conditional grant obtained before that date, or
 - (c) the hotelier entered into a contract to carry out significant building or refurbishment work on the hotel to which the application relates and work had commenced on or before 19 April 2001.
- (3) In addition to subsection (2), a hotelier may make a hardship application if the Board is satisfied, on the evidence provided to the Board by the hotelier, that the financial viability of the hotelier's business as a whole will be seriously threatened if the hotelier is unable to keep the additional approved gaming machines.
- (4) For the purposes of subsection (3):
- (a) it is not sufficient for the hotelier to establish that the hotelier will not be able to realise expected net profits from any additional approved gaming machines, and
 - (b) if the hotelier has a financial interest in another hotel—the hotelier is required to establish that the threat to the financial viability of the hotelier's business cannot be off-set by the profits derived from the keeping of approved gaming machines in the other hotel.
- (5) A hotelier may also make a hardship application to keep such number of approved gaming machines as were approved by the Board before 19 April 2001 to be kept in the hotel after that date but that were, because of the operation of the hotel freeze provisions, prevented from being kept in the hotel after that date.
- (6) For the purposes of subsection (5), the ***hotel freeze provisions*** means clause 46AA of the *Liquor Regulation 1996* (as in force immediately before its repeal on 17 July 2001) and Division 2B of Part 11 of the *Liquor Act 1982* (as in force immediately before its repeal by this Act).

- (7) Division 1 of Part 4 does not apply to a hardship application by a hotelier unless the application is made in respect of a new hotel.

28 Hardship applications by registered clubs

- (1) In making a hardship application, a registered club must establish, to the satisfaction of the Board, that:
- (a) the financial viability of the club will be seriously threatened if the club is not able to keep the additional approved gaming machines, and
 - (b) the club entered into a contract before noon on 28 March 2000 for the carrying out of significant building or refurbishment work in relation to the club, and
 - (c) the decision to enter into the contract was based on current cash flow estimates that relied on the additional approved gaming machines.
- (2) Subject to the regulations, an existing hardship application made by a registered club is taken to be a hardship application under this Division.
- (3) Subsection (1) does not apply in relation to an existing hardship application if it was made before 26 July 2001. Such an existing hardship application is to be determined by the Board in accordance with the provisions of section 88AF of the *Registered Clubs Act 1976* as if that section was still in force.
- (4) However, subsection (1) does apply in relation to an existing hardship application if it was made on or after 26 July 2001.
- (5) Division 1 of Part 4 does not apply to a hardship application by a registered club unless the application is made in respect of a new club (including a club whose premises are removed under the *Registered Clubs Act 1976* to other premises whether or not in the same neighbourhood as the previous premises).
- (6) In this section:
- existing hardship application*** means an application, made but not determined before the commencement of this section, under the *Registered Clubs Act 1976* for the keeping of additional approved gaming machines in a registered club and which was made in connection with section 88AF of that Act (as in force immediately before its repeal by this Act).

29 Approval to keep hardship gaming machines

- (1) The Board may refuse a hardship application, or it may approve of the hotelier or registered club keeping all or some of the number of approved gaming machines sought by the hotelier or club in the application. Any such machine is referred to as a *hardship gaming machine*.
- (2) The keeping of a hardship gaming machine is subject to any requirement under this Division in relation to the forfeiture of the approval to keep hardship gaming machines.
- (3) For the purposes of this Act, a *hardship gaming machine* includes, in the case of a registered club, a section 88AF hardship machine that:
 - (a) is kept in the club as at the commencement of this section, or
 - (b) was, before the commencement of this section, authorised by the Board to be kept in the club at some later time.
- (4) Any such section 88AF hardship machine is taken to have been approved to be kept in the registered club under this Act.
- (5) In this section:

section 88AF hardship machine means an approved gaming machine authorised to be kept in a registered club as the result of an application that was dealt with under, and determined in accordance with, section 88AF of the *Registered Clubs Act 1976* (as in force immediately before its repeal by this Act).

30 Requirement to forfeit hardship gaming machines in certain circumstances

- (1) If the Board approves of a hotelier or registered club keeping any hardship gaming machines, the hotelier or club must forfeit to the Board the approval to keep those gaming machines before any poker machine entitlement allocated in respect of the hotelier's licence or the premises of the club can be transferred under Division 2 of this Part.
- (2) Subsection (1) does not apply to or in respect of:
 - (a) a hotelier or registered club after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machines were approved to be kept in the hotel or on the club's premises, or
 - (b) any hardship gaming machines kept on the relevant premises of a large-scale club.

- (3) Subject to the regulations, if a hotelier's licence is removed under the *Liquor Act 1982* to other premises that are situated more than 1 kilometre from the previous premises, the hotelier must:
- (a) forfeit to the Board the approval to keep any hardship gaming machine in the hotel, and
 - (b) surrender to the Board the authorisation under Part 5 to keep any approved amusement device in the hotel.

31 Allocation of poker machine entitlements for hardship gaming machines

- (1) The Board may, on application by a hotelier or registered club, allocate one poker machine entitlement for each hardship gaming machine approved to be kept in the hotel or on the premises of the club.
- (2) Any such poker machine entitlement may be transferred in accordance with Division 2 of this Part.
- (3) An application under subsection (1) for the allocation of a poker machine entitlement in relation to a hardship gaming machine may be made only after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machine was approved to be kept in the hotel or on the premises of the club concerned.

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Part 4	Gambling harm minimisation measures
Division 1	Social impact assessment of gaming machines

Part 4 Gambling harm minimisation measures

Division 1 Social impact assessment of gaming machines

32 Application and operation of Division

- (1) This Division applies to an application under Part 5 for authorisation to keep:
 - (a) any additional approved gaming machines in a hotel or registered club, or
 - (b) any approved gaming machines in a new hotel or a new club.
- (2) The provisions of this Division are in addition to the provisions of Part 5 with respect to the making of applications to the Board for authorisation to keep approved gaming machines and the determination of those applications.
- (3) This Division does not (except in the case of a new hotel or a new club) apply to or in respect of a hardship application as referred to in Division 3 of Part 3.
- (4) This Division extends to applications under the *Liquor Act 1982* or the *Registered Clubs Act 1976* for authorisation to keep approved gaming machines that were made before the commencement of this Division but had not been finally determined by the Board on that commencement.
- (5) For the purposes of this Division, a reference to a new club includes a reference to a club whose premises are removed under the *Registered Clubs Act 1976* to other premises (whether or not in the same neighbourhood as the previous premises).

33 Social impact assessment must be provided in connection with application for authorisation to keep gaming machines

- (1) A social impact assessment must be provided to the Board in connection with an application to which this Division applies.
- (2) The social impact assessment must comply with this Division and the regulations.

34 Classes of social impact assessment

- (1) A social impact assessment is to be a *class 1* social impact assessment or a *class 2* social impact assessment as determined in accordance with the regulations.
- (2) Subject to the regulations, a class 1 social impact assessment is required to be provided if:
 - (a) the application relates to the keeping, over a period prescribed by the regulations, of a number of approved gaming machines that is less than the number prescribed by the regulations for the purposes of this paragraph, or
 - (b) the application has resulted from the transfer of poker machine entitlements from another hotel or other premises of a registered club and the other hotel is, or the other premises are, situated within 1 kilometre of the hotel or premises to which the application relates.

35 Requirements in relation to social impact assessments

The regulations may make provision for or with respect to the following:

- (a) the requirements that must be satisfied by a social impact assessment,
- (b) the criteria for determining whether a social impact assessment is to be a class 1 or a class 2 social impact assessment,
- (c) the matters to be assessed or addressed by a social impact assessment,
- (d) the information to be provided by a social impact assessment.

36 Advertising of application and social impact assessment

- (1) After the applicant has provided the Board with a social impact assessment in connection with an application to which this Division applies, the applicant must:
 - (a) place a copy of the application and the social impact assessment on public exhibition at the premises to which the application relates, and
 - (b) publish an advertisement about the application in a newspaper circulating in the area in which those premises are situated, and

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- (c) provide a copy of the application and the social impact assessment to the Director and the local council at or before the time the advertisement is published.
- (2) If the premises to which the application relates are not yet erected or occupied by the applicant, subsection (1) (a) is complied with if the application is dealt with in accordance with the regulations.
- (3) The advertisement must:
 - (a) be in the form approved by the Board, and
 - (b) state that a copy of the application and the social impact assessment will be available for public inspection at the place specified in the advertisement, and
 - (c) invite any written submissions on the matter to be made to the Board within 30 days after the publication of the advertisement.
- (4) The application cannot be determined by the Board until after the expiration of that 30-day period.
- (5) In determining the application, the Board must take into account any written submission made on the matter within that 30-day period.

37 Approval of social impact assessment

- (1) An application to which this Division applies cannot be granted unless the Board has approved the social impact assessment provided in connection with the application.
- (2) The applicant is liable to meet any costs incurred by the Board in connection with the approval of a social impact assessment. The Board may decline to approve the social impact assessment until any such costs are paid or provision, satisfactory to the Board, has been made for their payment.
- (3) The Board may approve the social impact assessment only if the Board is satisfied that:
 - (a) the social impact assessment complies with the requirements of the regulations in relation to the social impact assessment, and
 - (b) the social impact assessment has demonstrated that the gambling activities involving approved gaming machines in the hotel or club concerned will be conducted in a responsible manner, and

- (c) in the case of an application involving a new hotel or new club—there is no school, place of public worship or hospital in the immediate vicinity of the hotel or club, and
 - (d) in the case of a class 2 social impact assessment—the overall economic and social impact of granting the application will not be detrimental to the local community.
- (4) For the purposes of subsection (3) (d), the local community comprises, subject to the regulations, the people in the area or group from which the persons utilising the services and facilities of the hotel or registered club concerned are likely to be drawn.
 - (5) Subject to the regulations, if a social impact assessment is approved in connection with an application that has been made for a number of approved gaming machines (*the overall number*) that is more than the number required by the applicant at the time of the application, the social impact assessment may, for such period as is prescribed by the regulations, operate in relation to the keeping of the overall number.
 - (6) The Board may partly approve a social impact assessment provided in connection with an application to which this Division applies, in which case the Board may authorise the applicant to keep less approved gaming machines than the number applied for.

Division 2 Mandatory shutting down of gaming machines

38 Interim 3-hour shutdown period to operate until 1 May 2003

- (1) During the period starting on the commencement of this Division and ending on 30 April 2003, a hotelier or registered club must ensure that each approved gaming machine that is kept in the hotel or club is not operated for the purposes of gambling between 6 am and 9 am on each day of the week (*the interim 3-hour shutdown period*).
Maximum penalty: 100 penalty units.
- (2) The application of the interim 3-hour shutdown period in respect of a hotel or registered club is subject to section 41.

39 General 6-hour shutdown period after 1 May 2003

- (1) On and from 1 May 2003, a hotelier or registered club must ensure that each approved gaming machine that is kept in the hotel or club is not operated for the purposes of gambling between 4 am and 10 am on each day of the week (*the general 6-hour shutdown period*).

Maximum penalty: 100 penalty units.

- (2) The application of the general 6-hour shutdown period in respect of a hotel or registered club is subject to sections 40 and 41.

40 Approval of 3-hour shutdown period on weekends and public holidays

- (1) The Board may, on application by a hotelier or registered club, approve of the hotel or club having a shutdown period of between 6 am and 9 am on each day occurring on or after 1 May 2003 that is a Saturday, Sunday or public holiday (*the 3-hour shutdown period*).

- (2) If the 3-hour shutdown period on a Saturday, Sunday or public holiday is approved for the time being in respect of a hotel or registered club, the hotelier or club must ensure that each approved gaming machine that is kept in the hotel or club is not operated for the purposes of gambling between 6 am and 9 am on that day.

Maximum penalty: 100 penalty units.

- (3) The Board's approval of a hotel or registered club having the 3-hour shutdown period may be given only if the Board is satisfied:

- (a) that the local consent authority for the area in which the hotel or club is situated has agreed to the hotel or club operating approved gaming machines between 4 am and 6 am, and between 9 am and 10 am on the days on which the 3-hour shutdown period is to operate, and
- (b) that the hotelier or club has complied with such harm minimisation requirements as are prescribed by the regulations for the purposes of this section.

- (4) The Board's approval under this section:

- (a) is to be in writing, and
- (b) is subject to such conditions as the Board thinks fit to impose, and
- (c) may be revoked at any time by the Board for such reason as it thinks fit.

41 Approval of different shutdown periods for “early openers”

- (1) This section applies in relation to a hotel or registered club if, in the opinion of the Board, the hotel or club:
 - (a) was, on a regular basis before 1 January 1997, open for business before 10 am on at least one day of the week, and
 - (b) was, on a regular basis before 1 January 1997, closed for business between midnight and 10 am for a minimum of 3 hours on at least one day of the week, and
 - (c) has continued, and is continuing, to open and close on that same basis ever since.
- (2) The Board may, on application made in respect of a hotel or registered club to which this section applies, approve of the hotel or club having:
 - (a) during the period starting on the commencement of this Division and ending on 30 April 2003—a different 3-hour shutdown period to the interim 3-hour shutdown period referred to in section 38, and
 - (b) on and from 1 May 2003:
 - (i) a different 6-hour shutdown period to the general 6-hour shut down period referred to in section 39, and
 - (ii) a different 3-hour shutdown period on Saturdays, Sundays and public holidays to the 3-hour shutdown period referred to in section 40.
- (3) The Board may only approve of a hotel or registered club having any such different shutdown period if the approved period is consistent with the opening and closing times (as referred to in subsection (1)) of the hotel or club.
- (4) If any such different shutdown period is approved for the time being in respect of the hotel or registered club, the hotelier or club must ensure that each approved gaming machine that is kept in the hotel or club is not operated for the purposes of gambling during the approved period.

Maximum penalty: 100 penalty units.

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Division 2	Mandatory shutting down of gaming machines

- (5) The Board's approval of a hotel or registered club having different shutdown periods may be given only if the Board is satisfied:
- (a) that the local consent authority for the area in which the hotel or club is situated has agreed to the hotel or club operating approved gaming machines during the approved period concerned, and
 - (b) that the hotelier or club has complied with such harm minimisation requirements as are prescribed by the regulations for the purposes of this section.
- (6) The Board's approval under this section:
- (a) is to be in writing, and
 - (b) is subject to such conditions as the Board thinks fit to impose, and
 - (c) may be revoked at any time by the Board for such reason as it thinks fit.

42 General provisions

- (1) Nothing in this Division requires a hotelier or registered club, during any period in which approved gaming machines are not to be operated for the purposes of gambling in accordance with this Division, to close off to the patrons of the hotel or club any area of the hotel or club in which approved gaming machines are located.
- (2) Nothing in this Division affects the operation:
- (a) of the *Liquor Act 1982*, or of any other Act or law, with respect to the trading hours (within the meaning of the *Liquor Act 1982*) of a hotel, or
 - (b) of any Act or other law that regulates the hours in which a registered club is authorised to stay open.

Division 3 General harm minimisation measures

43 Prohibition on publishing gambling-related advertising

- (1) A hotelier or registered club must not publish or cause to be published any gambling-related advertising.
- Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply to any gambling-related advertising published or caused to be published at any time during the period of 6 months after the commencement of this section.
- (3) A hotelier or registered club must not, after the commencement of this section, enter into or extend the duration of any contract or arrangement for the publication of gambling-related advertising.
- Maximum penalty: 100 penalty units.
- (4) Any such contract or arrangement entered into or extended after the commencement of this section has no effect.
- (5) Regardless of any other provision of this section, any contract or arrangement for the publication of gambling-related advertising that was entered into before the commencement of this section ceases to have effect 6 months after that commencement.

- (6) In this section:

gambling-related advertising means any advertising that gives publicity to, or otherwise promotes or is intended to promote, participation in gambling activities involving approved gaming machines in a hotel or registered club, but does not include any such advertising that is excluded from the operation of this section by the regulations.

publish includes disseminate in any way, whether by oral, visual, written or other means (for example dissemination by means of cinema, video, radio, electronics, the Internet or television or by means of promotional material such as club journals, brochures or flyers).

44 Prohibition on displaying gambling-related signs

- (1) A hotelier or registered club must not display or cause to be displayed any gambling-related sign:
- (a) anywhere outside or in the vicinity of the hotel or club, or
 - (b) anywhere inside the hotel or club so that it can be seen from outside the hotel or club.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply to any gambling-related sign displayed or caused to be displayed at any time during the period of 6 months after the commencement of this section.

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- (3) A hotelier or registered club must not, after the commencement of this section, enter into or extend the duration of any contract or arrangement for displaying a gambling-related sign that is or will be displayed as described in subsection (1).

Maximum penalty: 100 penalty units.

- (4) Any such contract or arrangement entered into or extended after the commencement of this section has no effect.
- (5) Regardless of any other provision of this section, any contract or arrangement for displaying a gambling-related sign that was entered into before the commencement of this section ceases to have effect 6 months after that commencement.

- (6) In this section:

gambling-related sign means any sign (whether consisting of words, symbols, pictures or any other thing):

- (a) that draws attention to, or can reasonably be taken to draw attention to, the availability of approved gaming machines in a hotel or registered club, or
- (b) that uses a term or expression frequently associated with gambling, or
- (c) that relates to a gambling franchise or gambling business,

but does not include any sign relating to the conduct of a totalizator under the *Totalizator Act 1997* or of a public lottery under the *Public Lotteries Act 1996*, or any sign that is excluded from the operation of this section by the regulations.

45 Regulation of promotional prizes and player reward schemes

- (1) In this section:

player reward scheme means a system, used in connection with the operation of approved gaming machines in a hotel or registered club, in which the players of such gaming machines accumulate bonus or reward points from playing the gaming machines.

promotional prize means any prize or reward (including bonus points) offered by a hotelier or registered club to the patrons of the hotel or club in connection with a player reward scheme or any other marketing or promotional activity that involves approved gaming machines.

- (2) A hotelier or registered club must not:
- (a) offer or present a promotional prize in the form of cash, or
 - (b) offer or present a promotional prize that exceeds \$1,000 in value, or
 - (c) permit a patron of the hotel or club to exchange a promotional prize for cash, or
 - (d) permit any bonus or reward points accumulated under a player reward scheme to be redeemed for cash.

Maximum penalty: 100 penalty units.

- (3) Subsection (2) does not apply to or in respect of:
- (a) promotional prizes that form part of a jackpot prize under an authorised linked gaming system, or
 - (b) such prizes as are prescribed by the regulations for the purposes of this section.
- (4) If a hotelier or registered club conducts a player reward scheme, the hotelier or club must, in accordance with the regulations:
- (a) advise the participants in the scheme of the availability of player activity statements that relate to the playing of approved gaming machines under the scheme, and
 - (b) provide each such participant with a player activity statement.

Maximum penalty: 100 penalty units.

- (5) The regulations may make provision for or with respect to player reward schemes and any matter concerning player activity statements (including the details to be included in player activity statements).
- (6) Subsection (4) does not apply to any player reward scheme conducted during the period of 6 months after the commencement of this section.

46 Provision of problem gambling counselling services

- (1) A hotelier or registered club is, subject to the regulations, required to enter into arrangements for problem gambling counselling services to be made available to the patrons of the hotel or club.
- (2) The regulations may make provision for or with respect to the following:
- (a) the classes of persons who are to provide the counselling services,

- (b) the nature of the arrangements to be made with those persons,
- (c) the nature of the counselling services that are to be made available,
- (d) the manner in which those services are to be provided.

47 Responsible conduct in relation to gaming machines

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in relation to approved gaming machines in hotels and registered clubs.
- (2) In particular, the regulations may make provision for or with respect to the following:
 - (a) restricting or prohibiting the conduct of promotions in relation to the playing of approved gaming machines,
 - (b) the standards to be observed for responsible conduct in relation to approved gaming machines,
 - (c) requiring:
 - (i) the secretary of a registered club or other person engaged or proposing to be engaged in the administration of the club or in the management of approved gaming machines in the club, or
 - (ii) a hotelier or the manager of a hotel, or any person engaged or proposing to be engaged in the administration of a hotel or in the management of approved gaming machines in the hotel,

to undergo courses of training that will promote responsible practices in relation to approved gaming machines,
 - (d) the prohibition or restriction of the offering of inducements, or inducements of a kind, specified by the regulations,
 - (e) the information to be provided and signs to be displayed about approved gaming machines in a hotel or registered club,
 - (f) the notices to be displayed with respect to the availability of counselling in respect of financial, social or other problems that may arise in connection with the playing of approved gaming machines,

- (g) requiring facilities in hotels or registered clubs for the withdrawal or transfer of money from banks and authorised deposit-taking institutions (such as ATMs and EFTPOS) to be installed or located in parts of the hotel or club that are separate from parts of the hotel or club where approved gaming machines are located,
 - (h) the provision of anonymity at the request of a person who has won a major prize.
- (3) The regulations under this section may create offences punishable by a penalty not exceeding 50 penalty units.

48 Industry codes of practice

- (1) For the purpose of providing practical guidance for the promotion of responsible practices and conduct in relation to approved gaming machines in hotels and registered clubs, the Minister is to approve industry codes of practice that set out the standards to be observed by hoteliers and registered clubs.
- (2) The Minister may approve as an industry code of practice any code, standard or document relating to such standards prepared or formulated by the Australian Hotels Association (NSW), Clubs NSW or any other body or authority.
- (3) The Minister may approve any amendment of a code of practice or revoke the approval of a code of practice.
- (4) The Minister is to publish in the Gazette:
 - (a) any such approved code of practice, and
 - (b) any approved amendment of a code of practice, and
 - (c) the revocation of an approval of a code of practice.
- (5) The Minister is to cause a copy of an approved code of practice and, if any amendment to the code has been approved, a copy of the amendment, to be made available for inspection by members of the public without charge at the offices of the Department of Gaming and Racing during normal office hours.

49 Requirement for hotels and clubs to conduct patron “self-exclusion schemes”

(1) In this section:

self-exclusion scheme means a scheme:

- (a) in which a person (*the participant*) is prevented, at his or her own request, from entering or remaining on any area of a hotel or registered club that is nominated by the participant (*the nominated area*), and
- (b) that is established and conducted by the hotelier or registered club in accordance with this section and the requirements prescribed by the regulations for the purposes of this section.

responsible person means:

- (a) in the case of hotel—any of the following:
 - (i) the hotelier,
 - (ii) the manager of the hotel,
 - (iii) an agent or employee of the hotelier or manager,
 - (iv) any other person involved in the conduct of gambling activities in the hotel, or
 - (b) in the case of a registered club—any of the following:
 - (i) the secretary of the club,
 - (ii) a director of the club,
 - (iii) an agent or employee of the club,
 - (iv) any other person involved in the conduct of gambling activities in the club.
- (2) For the purposes of this section, the nominated area of the hotel or registered club concerned may comprise the entire hotel or club.
- (3) A hotelier or registered club is required to enter into an arrangement, with a person or body approved by the Minister, in relation to the establishment and conduct of self-exclusion schemes in the hotel or club.
- (4) It is lawful for a responsible person for a hotel or registered club, using no more force than is reasonable in the circumstances:
- (a) to prevent a participant from entering the nominated area of the hotel or club, and
 - (b) to remove a participant from the nominated area or cause a participant to be removed from that area.

- (5) No civil or criminal liability is incurred by a responsible person for a hotel or registered club for any act done or omitted in good faith and in accordance with this section to or in respect of a participant in a self-exclusion scheme conducted at the hotel or club.

Division 4 Specific provisions relating to minors

50 Minors prohibited from operating gaming machines in hotels or clubs

- (1) A person under the age of 18 years must not operate an approved gaming machine in a hotel or registered club.

Maximum penalty: 10 penalty units.

- (2) It is a defence to a prosecution for an offence under this section if it is proved that the minor who operated the approved gaming machine did so under the supervision of the holder of a technician's licence for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved gaming machines.

51 Hoteliers and clubs liable for operation of gaming machines by minors

- (1) If a person under the age of 18 years operates an approved gaming machine:

- (a) in a hotel—the hotelier is guilty of an offence, or
- (b) in a registered club—the registered club and the secretary of the club are each guilty of an offence.

Maximum penalty: 50 penalty units.

- (2) It is a defence to a prosecution for an offence under this section if it is proved that the minor who operated the approved gaming machine was at that time over the age of 14 years and that:

- (a) before the commission of the offence, or
- (b) while the offence was being committed,

there was produced to the hotelier or an employee of the hotelier, or to the secretary of the registered club or an employee of the club, as the case may be, documentary evidence that might reasonably be accepted as applying to the minor and as proving that the minor was at least 18 years of age.

- (3) It is a defence to a prosecution for an offence under this section if it is proved that the minor who operated the approved gaming machine did so under the supervision of the holder of a technician's licence for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved gaming machines.

52 Minors not permitted in gaming machine areas

- (1) A person under the age of 18 years must not enter or be in a gaming machine area of a registered club.

Maximum penalty: 10 penalty units.

- (2) If a person under the age of 18 years is in a gaming machine area of a registered club and is not immediately removed from that area, the registered club and the secretary of the club are each guilty of an offence.

Maximum penalty: 50 penalty units.

- (3) If a person under the age of 18 years is in a registered club as the guest of a member of the club and is in any gaming machine area of the club, the member is guilty of an offence.

Maximum penalty: 20 penalty units.

- (4) It is a defence to a prosecution for an offence under subsection (1) or (2) if it is proved that the minor:

(a) was in the gaming machine area for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved gaming machines under the supervision of the holder of a technician's licence, or

(b) was in the gaming machine area of the registered club only for so long as was reasonably necessary to pass through it in order to conveniently gain access to another area of the club that the minor may lawfully enter and was in the company and immediate presence of a responsible adult.

- (5) In this section:

responsible adult has the same meaning as in the *Liquor Act 1982*.

53 Minors required to provide information

- (1) An authorised person may require a person who is reasonably suspected of being under the age of 18 years and who, if under the age of 18 years, would be committing an offence under this Act:

- (a) to state his or her full name and residential address, and
 - (b) to produce then, or at a police station within a reasonable time, documentary evidence that might be reasonably accepted as applying to the person and as evidence of his or her age.
- (2) A person the subject of a requirement under subsection (1) must not:
- (a) refuse or fail to state his or her full name and residential address, or
 - (b) without reasonable excuse, refuse or fail to produce evidence of age as referred to in subsection (1) (b).

Maximum penalty: 10 penalty units.

- (3) In this section:
- authorised person*** means:
- (a) a hotelier or an employee of a hotelier, or
 - (b) the secretary of a registered club or an employee of a registered club, or
 - (c) a police officer.

54 Reasonable evidence of age

- (1) Without limiting or precluding any other evidence that might reasonably be accepted as evidence that a person is at least 18 years of age, the regulations may make provision for the kind of evidence that, for the purposes of this Act, would be evidence to that effect.
- (2) A person under the age of 18 years who:
- (a) provides information in order to obtain evidence of a kind prescribed by the regulations for the purposes of this section, and
 - (b) knows that the information is false or misleading in a material particular,
- is guilty of an offence.

Maximum penalty: 10 penalty units.

- (3) A person who:
- (a) provides or certifies information of a kind required to enable that or any other person to obtain evidence of a kind prescribed by the regulations for the purposes of this section, and

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- (b) knows that the information is to be used in order to obtain evidence, or that it is required in order to obtain evidence, prescribed for those purposes, and
 - (c) knows that the information is intended to be used to obtain evidence that will be false or misleading in a material particular,
- is guilty of an offence.

Maximum penalty: 20 penalty units.

55 Minors not to be detained

A person under the age of 18 years may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this Act or an amount ordered to be paid under Division 4 of Part 3 of the *Fines Act 1996* in respect of a penalty notice issued under this Act.

Part 5 Administrative controls in relation to gaming machines

Division 1 Authorisation to keep or dispose of gaming machines

56 Requirement for authorisation to keep or dispose of gaming machines

- (1) A hotelier or registered club must not keep or dispose of an approved gaming machine unless:
 - (a) the keeping or disposal of the gaming machine is authorised by the Board, and
 - (b) the hotelier or club complies with the requirements of or under this Act in relation to the keeping or disposal of the gaming machine and with the conditions to which the authorisation is subject.

Maximum penalty: 100 penalty units.

- (2) The Board may, by instrument in writing, authorise a hotelier or registered club to keep or dispose of approved gaming machines. An authorisation to keep approved gaming machines may be varied by the Board from time to time.
- (3) An authorisation to keep approved gaming machines is an authorisation that relates to the total number of approved gaming machines kept in the hotel or registered club concerned at any one time as well as to the keeping of a particular approved gaming machine.
- (4) The total number of approved gaming machines that the Board may authorise to be kept in a hotel from time to time consists of the following:
 - (a) the number of approved poker machines that corresponds to the number of poker machine entitlements allocated for the time being in accordance with this Act in respect of the hotelier's licence,
 - (b) the number of approved poker machines that corresponds to the number of Liquor Act poker machine permits held by the hotelier,

- (c) the number of hardship gaming machines kept in the hotel,
 - (d) the number of approved amusement devices kept in the hotel.
- (5) The total number of approved gaming machines that the Board may authorise to be kept on any of the premises of a registered club from time to time consists of the following:
- (a) the number of approved poker machines that corresponds to the number of poker machine entitlements allocated for the time being in accordance with this Act in respect of the premises concerned,
 - (b) the number of hardship gaming machines kept on those premises,
 - (c) the number of approved amusement devices kept on those premises.
- (6) An authorisation by the Board under this section is subject:
- (a) to such conditions as may be imposed by the Board in relation to the keeping or disposal of the approved gaming machines to which the authorisation relates, and
 - (b) to such conditions as are specified in this Act or as may be prescribed by the regulations.
- (7) The Board may vary an authorisation under this section in relation to a particular approved gaming machine to allow a modification of the gaming machine in accordance with section 64.
- (8) In the instrument by which the Board authorises the keeping or disposal of approved gaming machines, or by which it varies such an authorisation, the Board is to identify each of the approved gaming machines to which the authorisation relates.

57 Application for authorisation to keep or dispose of gaming machines

- (1) An application to the Board by a hotelier or registered club (*the applicant*):
- (a) for authorisation to keep or dispose of an approved gaming machine, or
 - (b) for a variation of an authorisation to keep an approved gaming machine,

is to be in a form approved by the Board and is to be accompanied by such documents as comply with the requirements of the form.

- (2) If, before a decision is made in respect of an application, there is a change in the information provided in or accompanying the application (including information provided under this subsection) the applicant must immediately provide the Board with full particulars of the change.

Maximum penalty: 50 penalty units.

- (3) The Board may, at any time before making a decision in respect of an application under this section, require the applicant to provide, or require the applicant to authorise another person to provide, the Board with such further information in relation to the application as is specified by the Board and, until the information is provided, may defer consideration of the application.

58 Cancellation of authorisations

- (1) An authorisation by the Board to keep or dispose of an approved gaming machine ceases to have effect if the authorisation:
- (a) is suspended or cancelled by the Board or the Licensing Court, or
 - (b) is cancelled by the operation of a provision of this Act, or
 - (c) relates to a poker machine or approved amusement device that has, in accordance with section 64, ceased to be an approved gaming machine.
- (2) If, under the *Liquor Act 1982*, a hotelier's licence is removed to other premises (whether or not those other premises are outside the neighbourhood of the previous premises), the removal of the hotelier's licence has the effect of cancelling the hotelier's authorisation to keep any approved gaming machine.
- (3) If, under the *Registered Clubs Act 1976*, the premises of a registered club are removed to other premises (whether or not those other premises are outside the neighbourhood of the previous premises), the removal of the club's premises has the effect of cancelling the club's authorisation to keep any approved gaming machine in the other premises.

59 Authorisation to keep gaming machines in hotel subject to primary purpose test

- (1) An approved gaming machine cannot be authorised to be kept in a hotel unless the Board is of the opinion that the primary purpose test in respect of the hotel is satisfied.
- (2) Without limiting the factors to which the Board may have regard in determining whether or not the primary purpose test in respect of the hotel is satisfied, the Board may have regard to any or all of the following:
 - (a) the proposed or actual physical layout of facilities in the hotel, including the positioning of any approved gaming machines in the hotel,
 - (b) the general manner in which gambling activities are to be conducted in the hotel,
 - (c) the general manner in which the overall business of the hotel is conducted.
- (3) It is a condition of a hotelier's authorisation to keep approved gaming machines that the hotelier complies with the primary purpose test in respect of the hotel.
- (4) If the Director is of the opinion that a hotelier has failed to comply with the primary purpose test in respect of the hotel, the Director may give a direction in writing to the hotelier requiring the hotelier to take remedial action specified in the direction within the time specified in the direction.
- (5) The hotelier must comply with any such direction.
Maximum penalty: 100 penalty units.
- (6) The Director may revoke or vary a direction given under this section.

60 Gaming machines not permitted in retail shopping centres

- (1) In this section:
retail shopping centre means a retail shopping centre within the meaning of the *Retail Leases Act 1994*, and includes:
 - (a) any adjoining building, or

- (b) anything declared to be a retail shopping centre by the regulations,
but does not include anything excluded from this definition by the regulations.
- (2) An approved gaming machine cannot be authorised to be kept in a hotel or registered club:
- (a) that is part of a retail shopping centre or proposed retail shopping centre, or
- (b) that was part of a retail shopping centre within the previous 12 months.
- (3) Subsection (2) does not apply to an authorisation that does not result in an increase in the total number of approved gaming machines authorised to be kept in the hotel or registered club.
- (4) If an application is granted under the *Liquor Act 1982* for the removal of a hotelier's licence to premises that are part of a retail shopping centre or proposed retail shopping centre, any authorisation to keep approved gaming machines in the hotel ceases.
- (5) If an application is granted under the *Registered Clubs Act 1976* that results in any part of a registered club being moved or extending to a retail shopping centre or proposed retail shopping centre, any authorisation to keep approved gaming machines in that part of the premises of the club ceases.
- (6) This section extends to a poker machine or device kept in a hotel or registered club on a trial basis as provided by section 66.

61 Clubs may keep multi-terminal gaming machines

- (1) In this section:
- multi-terminal gaming machine* means an approved gaming machine that:
- (a) is designed to be played by more than one player at the one time, and
- (b) is equipped with more than one player terminal.
- (2) The Board may authorise a registered club to keep a multi-terminal gaming machine.

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Division 1	Authorisation to keep or dispose of gaming machines

- (3) The number of multi-terminal gaming machines that the Board may authorise to be kept in a registered club must not exceed such number as may be prescribed by the regulations.
- (4) A registered club must not keep a multi-terminal gaming machine if the maximum amount for any single bet, or the maximum amount of any prize, exceeds the maximum amount, respectively, prescribed by the regulations.
Maximum penalty: 100 penalty units.
- (5) For the purposes of this Act, each player terminal that forms part of a multi-terminal gaming machine is, except as provided by the regulations, taken to be (and accordingly to be counted as) a separate approved gaming machine.

Division 2 Approval of gaming machines by Board

62 Board may approve of technical standards

- (1) The Board may, from time to time, approve of technical standards in relation to poker machines and devices in the nature of approved amusement devices for the purposes of ensuring the integrity of gaming by the use of poker machines and such devices.
- (2) Any such technical standards are referred to in this Act as *the approved technical standards*.

63 Application for declaration of device as approved gaming machine

- (1) The holder of a dealer's licence may apply to the Board for declaration of a device as:
 - (a) an approved poker machine, or
 - (b) an approved amusement device.
- (2) The Board may:
 - (a) investigate any such application, or authorise its investigation, in order to determine whether the device is suitable for declaration, and
 - (b) require the applicant to meet the cost of the investigation.

- (3) It is a condition of the dealer's licence held by the applicant that the applicant is to pay to the Board, within a time allowed by the Board, such of the costs of the investigation as may be required by the Board and is to do so even if the investigation is terminated without a decision being made as to whether or not the device is to be declared to be an approved gaming machine. Any such costs may be reviewed by the Board only.
- (4) This section does not:
- (a) confer a right to have a device investigated, or
 - (b) prevent the Board from terminating at its discretion an investigation of a device.

64 Declaration of approved gaming machines

- (1) The Board may declare that a device referred to in the declaration is an approved poker machine or approved amusement device for the purposes of this Act.
- (2) A declaration under this section:
- (a) may refer to a device specifically or by reference to a class or description of devices, and
 - (b) may be a temporary declaration pending final determination of an application for declaration of the device as an approved gaming machine.
- (3) The Board may refuse to make a declaration of a device as an approved poker machine or approved amusement device if the Board is of the opinion that the declaration would relate to a device that does not meet the approved technical standards.
- (4) If an approved gaming machine kept by a hotelier or registered club is modified in such a way that it is in the form of a different approved gaming machine, it ceases to be an approved gaming machine despite being in that form unless:
- (a) the material used to effect the modification was supplied by the holder of a dealer's licence (either directly or through the holder of another gaming-related licence), and
 - (b) the modification was effected in accordance with a variation of the authorisation in force in relation to the keeping of the approved gaming machine.

- (5) A minor or insignificant variation does not prevent a device from being an approved gaming machine if the variation does not affect its security or integrity or the manner in which the device from which it varies was designed and programmed to function.
- (6) The Board may revoke a declaration in force under this section if it considers that it is necessary to do so in the public interest or if it is a temporary declaration.
- (7) A device ceases to be an approved gaming machine if its declaration as an approved gaming machine is revoked.
- (8) If the Board revokes the declaration of a device as an approved gaming machine, the revocation does not take effect until the hotelier, registered club or holder of the dealer's licence who is in possession of the device has been given, or served by post with, written notice of the revocation.

65 Dealer may make representations on investigation of gaming machine or revocation of declaration

- (1) Before the Board decides:
 - (a) to terminate the investigation of an application by the holder of a dealer's licence (*the licensee*) for declaration of a device as an approved gaming machine, or
 - (b) to refuse such an application, or
 - (c) to revoke the declaration of a device as an approved gaming machine that was made on the application of a licensee,the Board must serve on the licensee concerned a notice in writing.
- (2) The notice is to:
 - (a) specify the reasons why the Board is considering taking the action specified in the notice, and
 - (b) give the licensee 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 licensee 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 and the Board is to consider any submissions so made.

- (4) After considering any submissions made by the licensee, or if no such submissions are made, the Board may:
 - (a) proceed with the proposed action, or
 - (b) conditionally or unconditionally decide not to take the proposed action.
- (5) The decision of the Board takes effect when written notice of the decision is given to the licensee or on a later date specified in the notice.

66 Non-approved gaming machines may be kept on trial basis

- (1) A hotelier or registered club may, with the approval of the Board and subject to compliance with any conditions imposed by the Board, keep on a trial basis for a period fixed by the Board:
 - (a) a poker machine that is not an approved poker machine, or
 - (b) a device that is in the nature of, but is not, an approved amusement device.
- (2) A poker machine entitlement cannot be allocated in relation to any such poker machine or device.
- (3) If a poker machine or device is kept as provided by subsection (1), the poker machine or device is taken to be an approved gaming machine authorised to be kept in the hotel or club concerned for the purposes of this Act (except section 73) and the *Gaming Machine Tax Act 2001*.

Division 3 Transfer of Board's functions

67 Transfer of Board's functions in relation to approved gaming machines

- (1) The regulations may provide that any function of the Board under this Act in relation to approved gaming machines may be exercised by a person other than the Board.
- (2) Any such regulation is to specify:
 - (a) the function of the Board that is to be exercised, and
 - (b) the person who may exercise the function.
- (3) The regulations may make provision with respect to any matter that is relevant to the exercising of a function of the Board by a person other than the Board.

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Part 5 Administrative controls in relation to gaming machines

Division 3 Transfer of Board's functions

- (4) If, in accordance with this section and the regulations, the functions of the Board in relation to authorising the keeping of approved gaming machines are exercised by the CMS licensee, the CMS licensee may charge a fee in connection with the exercising of those functions. The amount of the fee, and the manner in which it is paid, is to be determined in accordance with the arrangements entered into by the CMS licensee and the hotelier or registered club to whom or which the authorisation relates.
- (5) A delegation by the Board under section 75 of the *Liquor Act 1982* has no effect if it is inconsistent with a regulation made in accordance with this section.
- (6) This section does not apply to the functions of the Board in so far as they relate to the specification of technical standards for approved gaming machines, linked gaming systems within the meaning of Part 10 or equipment used in the connection of approved gaming machines to an authorised CMS.

Part 6 Miscellaneous offences

68 Hotel gaming rooms

If more than 10 approved gaming machines are kept in a hotel, the hotelier must ensure that:

- (a) no more than 5 approved gaming machines are located in the general bar area of the hotel, and
- (b) the others (or all of them if none are located in the general bar area) are located in another area (a *gaming room*) that conforms to the requirements of the regulations.

Maximum penalty: 100 penalty units.

69 Possession of gaming machines that are not approved

- (1) A person (including a hotelier or registered club) must not be in possession of:
 - (a) a poker machine unless it is an approved poker machine, or
 - (b) a device that is in the nature of an approved amusement device unless the device is an approved amusement device.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) Subsection (1) does not apply to the possession of a poker machine or device that is in the nature of an approved amusement device:
 - (a) by a person who is the holder of a gaming-related licence, or
 - (b) if the Board has agreed to the making of an application under section 63 to have the poker machine or device declared by the Board to be an approved gaming machine and the possession is for the purposes of the application, or
 - (c) in any case where the Board terminates an investigation of, or refuses to approve, such an application—if the possession is for the purpose of disposing of the poker machine or device in a manner directed by the Board when notifying the applicant of the termination or refusal and does not extend beyond a reasonable time, or
 - (d) in such other circumstances as may be prescribed by the regulations.

70 Possession of approved gaming machine by unauthorised persons

- (1) A person who is in possession of an approved gaming machine is guilty of an offence unless the person:
- (a) is the holder of a gaming-related licence, or
 - (b) is a hotelier or registered club lawfully in possession of the approved gaming machine, or
 - (c) has possession of the approved gaming machine in the ordinary course of a business involving the transportation or storage of goods, or
 - (d) is a special inspector exercising functions under this Act, or
 - (e) is in lawful possession of the approved gaming machine as a consequence of its seizure under the authority of a search warrant under section 184.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) This section does not apply to the possession of an approved gaming machine:
- (a) by a hotelier if the hotelier's licence has been cancelled under the *Liquor Act 1982* and the possession has not extended beyond a reasonable time after the cancellation, or
 - (b) by a registered club if:
 - (i) the club has been disqualified from holding a certificate of registration under the *Registered Clubs Act 1976* and the period of disqualification has not expired, or
 - (ii) the certificate of registration of the club has been cancelled under that Act,and the possession has not extended beyond a reasonable time after the disqualification or cancellation.
- (3) This section does not apply to a person in possession of an approved gaming machine if:
- (a) the possession resulted from the exercise of a power conferred on the person by a mortgage and has not extended beyond a reasonable time after the exercise of the power, or

- (b) if the person obtained possession of the gaming machine by exercising a power or proprietary right under financial or other arrangements approved by the Board and has not retained possession beyond a reasonable time after the exercise of the power.

71 Supply and purchase of gaming machines

- (1) A person who supplies or offers to supply an approved gaming machine otherwise than by way of sale is guilty of an offence unless the supply or offer has been approved by the Board and any conditions imposed by the Board when giving the approval are complied with.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) A person who purchases or offers to purchase an approved gaming machine is guilty of an offence unless the gaming machine is purchased from, or the offer is made to, a person who is authorised by or under this Act to sell the gaming machine.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (3) A person who supplies an approved gaming machine to a hotelier or registered club is guilty of an offence unless the keeping of the gaming machine by the hotelier or club would be lawful.

Maximum penalty: 50 penalty units.

- (4) A person who supplies, or offers to supply, an approved gaming machine is guilty of an offence if possession of the gaming machine by the person to whom the gaming machine is supplied or offered is or would be unlawful.

Maximum penalty: 100 penalty units.

- (5) This section does not prohibit the supply of an approved gaming machine by:

- (a) a hotelier or registered club with the approval of the Board if any conditions imposed by the Board when approving the disposal of the gaming machine are complied with, or
- (b) a hotelier whose hotelier's licence has been cancelled (or who has been disqualified for a period from holding such a licence) if the supply is effected in accordance with arrangements approved by the Board, or

- (c) a club in respect of which the certificate of registration has been cancelled (or which has been disqualified for a period from holding a certificate of registration) if the supply is effected in accordance with arrangements approved by the Board.

72 Restrictions on keeping or modification of gaming machines

- (1) A hotelier or registered club must not keep or modify an approved gaming machine unless:
 - (a) the property in the gaming machine passes to the hotelier or club unconditionally and free from encumbrances after being paid for in full by the hotelier or club without the hotelier or club having obtained financial accommodation in order to make the payment, or
 - (b) the gaming machine is kept or modified in accordance with financial and other arrangements approved by the Board, under a written contract that includes such terms and conditions as may be prescribed by the regulations.Maximum penalty: 100 penalty units.
- (2) Any change in the financial or other arrangements under which a hotelier or registered club keeps or modifies an approved gaming machine is void without the prior written consent of the Board.

73 Sharing of receipts from gaming machines

- (1) Subject to Part 11, a hotelier or registered club must not:
 - (a) share any receipts arising from the operation of an approved gaming machine, or
 - (b) make any payment or part payment by way of commission or an allowance from or on any such receipts.Maximum penalty: 100 penalty units.
- (2) This section does not apply in respect of an approved gaming machine that is part of an authorised linked gaming system if:
 - (a) in the case of a hotelier—an agreement exists between the hotelier and a participating hotelier (within the meaning of Part 10) in relation to the linked gaming system for the sharing of receipts, or

- (b) in the case of a registered club—an agreement exists between the club and a participating club (within the meaning of Part 10) in relation to the linked gaming system for the sharing of receipts.

74 Granting interests in gaming machines

- (1) Subject to Part 11, a hotelier or registered club must not grant any interest in an approved gaming machine to any other person.

Maximum penalty: 100 penalty units.

- (2) This section does not apply:
 - (a) to an interest in an approved gaming machine that arises from an interest (such as a floating charge) granted over the whole of the hotelier's or registered club's assets (or over a portion of the hotelier's or registered club's assets) that includes, but does not specifically identify, the approved gaming machine, or
 - (b) to an interest in an approved gaming machine that is granted in accordance with financial or other arrangements approved by the Board.

75 Prohibition on gaming machines that provide cash or credit otherwise than as a prize

A hotelier or registered club is guilty of an offence if an approved gaming machine available for use in the hotel or club is capable of being operated to provide cash or credit otherwise than as a prize.

Maximum penalty: 100 penalty units.

76 Defective gaming machines

- (1) A hotelier or registered club is guilty of an offence if an approved gaming machine available for use in the hotel or club fails to function in the manner in which it was designed and programmed to function.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) if it is proved:
 - (a) that the operation of the approved gaming machine was for testing or maintenance purposes, or

- (b) that the hotelier, or the secretary or other person for the time being in charge of the club:
 - (i) had taken all reasonable precautions to ensure that the approved gaming machine was functioning properly, and
 - (ii) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the machine was not functioning properly.

77 Protection of sensitive areas of gaming machines

- (1) It is an offence for a person (other than an authorised person) to do any of the following:
 - (a) break a seal securing a computer cabinet or gain access to anything within a computer cabinet,
 - (b) affix a seal to a computer cabinet,
 - (c) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within a computer cabinet,
 - (d) break a seal protecting the integrity of the game program of an approved gaming machine,
 - (e) remove, or interfere with, any security device on an approved gaming machine,
 - (f) remove, or interfere with, the housing protecting the meters of an approved gaming machine,
 - (g) remove, disconnect or interfere with a meter of an approved gaming machine,
 - (h) interfere with information received, stored or transmitted electronically by an approved gaming machine,
 - (i) remove, or interfere with, any mark or seal affixed to an approved gaming machine to preserve the integrity of operation of the machine.

Maximum penalty: 100 penalty units.

- (2) An authorised person must, if the person breaks any seal in doing anything referred to in subsection (1), replace the seal.

Maximum penalty: 100 penalty units.

- (3) A person (including an authorised person) who removes, alters or otherwise interferes with the compliance plate on an approved gaming machine is guilty of an offence.

Maximum penalty: 100 penalty units.

- (4) Subsection (3) does not prevent the holder of a technician's licence from doing any of the following things in relation to the compliance plate on an approved gaming machine (so long as the gaming machine is not operated at any time when the compliance plate is not attached to the machine):

- (a) moving the compliance plate to another part of the gaming machine,
- (b) removing the compliance plate if it is damaged, and replacing it with a new compliance plate,
- (c) destroying any such damaged compliance plate,
- (d) temporarily removing the compliance plate in order to enable work to be done to the facade of the gaming machine.

- (5) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is also guilty of an offence.

Maximum penalty: 100 penalty units.

- (6) In this section:

authorised person means a special inspector or the holder of a technician's licence.

compliance plate has the same meaning as in section 121.

computer cabinet means the sealable part of an approved gaming machine that contains the game program storage medium and the random access memory.

78 Modification of gaming machines

- (1) A person who modifies an approved gaming machine in such a way that it is in the form of a different approved gaming machine is guilty of an offence unless:

- (a) the person holds a technician's licence, or

- (b) the modification does not, as provided by section 64, prevent the device concerned from being an approved gaming machine.
- (2) The holder of a technician's licence who modifies an approved gaming machine in such a way that it is in the form of a different approved gaming machine is guilty of an offence unless there is returned within a reasonable time to the supplier of the materials for the conversion so much of the device concerned as ceased to form part of it after its conversion and comprised:
 - (a) a meter, circuit board, read-only memory device or artwork, or
 - (b) a component prescribed as a restricted component.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

79 Consignment or movement of gaming machines

- (1) The holder of a dealer's licence, seller's licence or adviser's licence who consigns or moves an approved gaming machine:
 - (a) to or from any place at which the licensee carries on the business authorised by the licence, or
 - (b) from outside the State to a place within the State,must give the Director a written notification stating the particulars required by this section no later than 3 clear days before the consignment or movement or within such other time as may be approved by the Director.

Maximum penalty: 50 penalty units.
- (2) The required particulars are as follows:
 - (a) the number and type of approved gaming machines,
 - (b) the manufacturer's serial number for each of the approved gaming machines,
 - (c) the origin and destination of the approved gaming machines,
 - (d) the intended dates of transportation,
 - (e) the intended method of transport and the name of the carrier.

- (3) The Director may, conditionally or unconditionally, grant an exemption from the operation of this section in a particular case or a particular class of cases.

80 Cheating and unlawful interference with gaming machines

- (1) A person who:
- (a) has possession of a device made or adapted, or intended by the person to be used, for interfering with the normal operation of an approved gaming machine in a hotel or registered club, or
 - (b) does anything calculated, or likely, to interfere with the normal operation of an approved gaming machine in a hotel or registered club, or
 - (c) does anything calculated to render an approved gaming machine in a hotel or registered club incapable, even temporarily, of producing a winning combination,
- is guilty of an offence.
- (2) Subsection (1) does not apply to anything done in good faith in connection with:
- (a) the installation, alteration, adjustment, maintenance or repair of an approved gaming machine by the holder of a technician's licence, or
 - (b) the exercise by a person of a function conferred or imposed by this Act on a special inspector.
- (3) A person who, with intent to dishonestly obtain money or a financial advantage for himself or herself or another person, inserts in an approved gaming machine in a hotel or registered club anything other than:
- (a) a coin or token of the denomination or type displayed on the gaming machine as that to be used to operate the gaming machine, or
 - (b) a banknote of a denomination approved by the Board for use in order to operate the gaming machine, or
 - (c) a card of a type approved by the Board for use in order to operate the gaming machine,
- is guilty of an offence.
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- (4) A person who, in connection with an approved gaming machine in a hotel or registered club:
- (a) by any fraudulent representation, or
 - (b) by a fraudulent scheme or practice, or
 - (c) by the fraudulent use of the approved gaming machine or any other thing,

obtains for himself or herself or another person, or induces a person to deliver, give or credit to him or her or another person, any money, benefit, advantage, valuable consideration or security, is guilty of an offence.

- (5) A person who, without lawful excuse, uses or has in his or her possession in a hotel or registered club any equipment, device or thing that permits or facilitates cheating or stealing in connection with an approved gaming machine is guilty of an offence.
- (6) A person who knows of any faulty or fraudulent computer programming and as a result gains, or gains for another person, an advantage in the operation of an approved gaming machine is guilty of an offence.
- (7) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

81 Illegal advantage gained during design etc of gaming machines

- (1) A person who, during the design, manufacture, assembly, maintenance or repair of an approved gaming machine, dishonestly makes provision to gain an advantage (whether or not for another person) in the operation of the gaming machine is guilty of an offence.
- (2) A person who, as a result of gross negligence during the design, manufacture, assembly, maintenance or repair of an approved gaming machine, makes provision to gain an advantage (whether or not for another person) in the operation of the gaming machine is guilty of an offence.
- (3) A person who does anything to an approved gaming machine in order to conceal anything that is an offence under subsection (1) or (2) is guilty of an offence.

- (4) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

Part 7 Gaming-related licences

Division 1 Preliminary

82 Definitions

In this Part:

gaming machine adviser means a person who, under a contract of service or a contract for services, advises other persons, or issues analyses or reports, about poker machines or approved amusement devices, but does not include any of the following persons who give any such advice, or who issue or publish any such analyses or reports, in the circumstances as specified:

- (a) a legal practitioner or accountant when practising as a legal practitioner or accountant,
- (b) the secretary of a registered club when carrying out his or her duties as secretary of the club,
- (c) a hotelier or the manager of a hotel when carrying out duties as a hotelier or as the manager of a hotel.

licence fee means the fee payable for a gaming-related licence under this Part in respect of a licensing period.

licensing period means a period prescribed by the regulations for the purposes of section 108.

records includes plans, specifications, maps, reports, books and other documents (whether in writing, in electronic form or otherwise).

83 Types of gaming-related licences and authority they confer

- (1) For the purposes of this Act, the types of gaming-related licences, and the authority they confer, are as follows:
 - (a) gaming machine dealer's licence—authorises the licensee:
 - (i) to manufacture and assemble poker machines and devices in the nature of approved amusement devices in the place or places specified in the licence, and
 - (ii) to sell, or negotiate the sale of, approved gaming machines (whether or not manufactured or assembled by the licensee), and

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- (iii) to service, repair and maintain approved gaming machines, and
 - (iv) to act as a gaming machine adviser,
 - (b) gaming machine seller's licence—authorises the licensee:
 - (i) as an employee of the holder of a dealer's licence, seller's licence or adviser's licence—to negotiate on behalf of the employer the sale of approved gaming machines, and
 - (ii) to sell, as principal or agent, approved gaming machines,
 - (c) gaming machine technician's licence—authorises the licensee:
 - (i) to service, repair and maintain approved gaming machines, and
 - (ii) as an employee of the holder of a testing facility licence—to carry out, in the course of that employment, the authorised functions of that licensee,
 - (d) gaming machine adviser's licence—authorises the licensee:
 - (i) to act as a gaming machine adviser, and
 - (ii) to exercise the authority conferred by a seller's licence,
 - (e) gaming machine testing facility licence—authorises the licensee, in or on the premises specified in the licence, to test poker machines or devices that are in the nature of approved amusement devices:
 - (i) in connection with an application under section 63, or
 - (ii) in such other circumstances as the Board may determine,

to ascertain whether the poker machines or devices meet the technical standards adopted by the Board.
- (2) The authority conferred by a gaming-related licence is subject to this Act and to any conditions to which the licence is subject.
 - (3) If a corporation is the holder of a dealer's licence, seller's licence or testing facility licence, the authority conferred by this section on the corporation extends to a director or secretary of the corporation.
 - (4) The Board may, on the application of the holder of a dealer's licence, vary by endorsement on the licence the place or places referred to in subsection (1) (a) (i).

Division 2 Requirement for gaming-related licences

84 Manufacturing or assembling of gaming machines

- (1) A person who manufactures or assembles a poker machine or a device that is in the nature of an approved amusement device is guilty of an offence unless the person:
- (a) holds a dealer's licence, or
 - (b) is a director or secretary of a corporation that holds a dealer's licence, or
 - (c) is an employee of the holder of a dealer's licence and is doing work as such an employee.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) The holder of a dealer's licence who manufactures or assembles a poker machine or device that is in the nature of an approved amusement device otherwise than in accordance with the authority conferred by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (3) Subsection (2) does not apply to the manufacture or assembly of a poker machine or device in the nature of an approved amusement device by the holder of a dealer's licence if:

- (a) the Board has agreed to the making of an application by the licensee to have the poker machine or device declared as an approved gaming machine, and
- (b) the manufacture or assembly of the poker machine or device is for the purposes of the application and its investigation.

85 Sale of gaming machines

- (1) A person who sells an approved gaming machine is guilty of an offence unless:
- (a) the person is the holder of a dealer's licence, seller's licence or adviser's licence, or

- (b) the person is a director or secretary of a corporation that is the holder of such a licence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) It is a defence to a prosecution for an offence under subsection (1) if it is proved that the defendant, without being the holder of a seller's licence or adviser's licence, exercised a function of the holder of such a licence but did so only:
 - (a) for the purpose of receiving training or instruction in the exercise of the function, and
 - (b) under the supervision of the holder of such a licence.
- (3) It is a defence to a prosecution for an offence under subsection (1) if it is proved that the sale is to a purchaser at a price, and on terms and conditions, approved by the Board and is:
 - (a) a sale by a hotelier or club (whether or not a registered club) of an approved gaming machine that is, or was, an approved gaming machine kept by the hotelier or club, or
 - (b) a sale by a mortgagee of the approved gaming machine in the exercise of a power conferred by the mortgage, or
 - (c) a sale by a person (other than a mortgagee) who obtained possession of the approved gaming machine by exercising a power or proprietary right under financial and other arrangements approved by the Board.
- (4) The holder of a dealer's licence, seller's licence or adviser's licence who sells an approved gaming machine otherwise than as authorised by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.
- (5) This section does not prohibit the sale of an approved gaming machine by:
 - (a) a hotelier or registered club with the approval of the Board if any conditions imposed by the Board when approving the disposal of the gaming machine are complied with, or
 - (b) a hotelier whose hotelier's licence has been cancelled or who has been disqualified for a period from holding such a licence,

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if the sale is effected in accordance with arrangements approved by the Board, or

- (c) a club in respect of which the certificate of registration has been cancelled or which has been disqualified for a period from holding a certificate of registration, if the sale is effected in accordance with arrangements approved by the Board.

86 Servicing and repair of gaming machines

- (1) A person who services or repairs an approved gaming machine is guilty of an offence unless the person:
 - (a) holds a dealer's licence or technician's licence, or
 - (b) services or repairs the gaming machine under the supervision of the holder of such a licence for the purpose of receiving training and instruction in respect of the servicing and repair of approved gaming machines.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) The holder of a dealer's licence or technician's licence who services or repairs an approved gaming machine otherwise than in accordance with the authority conferred by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

87 Advice relating to gaming machines

- (1) A person who acts as a gaming machine adviser without being the holder of a dealer's licence or adviser's licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) The holder of a dealer's licence or adviser's licence who acts as a gaming machine adviser otherwise than in accordance with the authority conferred by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

Division 3 Licensing scheme**88 Applications for gaming-related licences**

- (1) A person may apply to the Licensing Court for a gaming-related licence.
- (2) The Licensing Court may refuse or grant such an application.
- (3) An application for a gaming related licence must:
 - (a) be in the form approved by the Board, and
 - (b) be accompanied by the fee prescribed by the regulations, and
 - (c) be made in the manner prescribed by the regulations, and
 - (d) if so required by the regulations, be advertised in accordance with the regulations.
- (4) An application for a gaming-related licence may not be made by:
 - (a) a person who is under the age of 18 years, or
 - (b) a person who is disqualified under section 131 from holding a gaming-related licence, or
 - (c) a person who is the holder of a suspended gaming-related licence.
- (5) An application for a gaming-related licence of a particular type:
 - (a) may be made only by persons of a class or description prescribed by the regulations, or
 - (b) may not be made by a person of a class or description prescribed by the regulations,if the regulations so provide in relation to that type of gaming-related licence.
- (6) Sections 97–100 do not apply to an application for a gaming-related licence made by a person who holds another gaming-related licence under this Act.

89 Interim work permits

- (1) The Principal Registrar may, pending the determination of an application for:

- (a) a seller's licence, or
- (b) a technician's licence, or
- (c) an adviser's licence, or
- (d) a testing facility licence,

issue a work permit in a form approved by the Board.

- (2) A work permit is subject to any conditions or restrictions of which the holder of the permit is notified by the Principal Registrar when issuing the permit.
- (3) A work permit may be cancelled by the Principal Registrar at any time and, unless sooner surrendered or cancelled, ceases to have effect on approval or refusal of the application made by the holder of the work permit for a gaming-related licence.
- (4) Subject to any condition or restriction imposed under subsection (2), this Act applies to the holder of a work permit in the same way as it applies to the holder of a gaming-related licence of the same kind as that applied for by the holder of the work permit.

90 Director's report required before application may be granted

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

91 Disclosure of interested parties

- (1) An application for a gaming-related licence (other than an application to be licensed as an employee), must be accompanied by an affidavit 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 affidavit, 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.
- (2) For the purposes of subsection (1), 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:
- (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.

92 Updating of applications

If, before an application for a gaming-related licence is granted or refused, a change occurs in the information provided in, or in connection with, the application (including information provided under this section) or in the documents lodged with the application, the applicant must immediately give the Principal Registrar notice in writing specifying particulars of the change.

Maximum penalty: 20 penalty units.

93 Principal Registrar to refer certain applications to Director

- (1) A registrar (other than the Principal Registrar) with whom an application to the Licensing Court for a gaming-related licence is lodged is to refer the application to the Principal Registrar.
- (2) The Principal Registrar is to refer to the Director for investigation:
 - (a) each application to the Licensing Court for a gaming-related licence that is lodged with the Principal Registrar or referred to the Principal Registrar by another registrar, and
 - (b) any changes of which the Principal Registrar is notified under section 92 in relation to such an application.

94 Investigations by Director

- (1) On receiving for investigation an application for a gaming-related licence, the Director is to carry out all such investigations and inquiries in relation to the applicant as are considered by the Director to be appropriate for a proper consideration of the application. The Director is to complete those investigations and inquiries within 6 months after the application is lodged.
- (2) In particular, the Director is to 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 made.

95 Director may require further information

- (1) The Director may, by notice in writing, require a person whose application for a gaming-related licence has been referred to the Director, 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 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 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 Licensing Court may refuse to grant an application for a gaming-related licence if a requirement made under this section in relation to the application is not complied with.

96 Expenses of investigation of application

- (1) The Licensing Court may, on the application of the Director or the Commissioner of Police, order an applicant for a gaming-related licence to pay to the Board within a stated time the amount required by this section and any amount involved in investigating whether or not to issue a certificate under section 102 (2).
- (2) The amount required is a specified amount towards defraying the cost of anticipated expenditure outside the State, and anticipated travelling expenses (whether within or outside the State), involved in investigating the application for the licence.
- (3) If an applicant for a gaming-related licence is required to make a payment under this section and fails to make the payment:
 - (a) the Director may refuse to proceed with investigation of the application, and
 - (b) the Licensing Court may refuse to hear the application and may dismiss it.

97 Objections to granting of applications

- (1) An objection to the granting by the Licensing Court of an application for a gaming-related licence may be made:
 - (a) by the Commissioner of Police, or
 - (b) by the Director, or
 - (c) except in the case of an application to be licensed as an employee—by the local consent authority in relation to the premises on or from which it is proposed to carry on the business to which the application relates, or
 - (d) by any other person with the leave of the Court.
- (2) An objection to the granting of an application may not be made by a person referred to in subsection (1) (d) unless it is accompanied by an affidavit by the objector stating:

- (a) whether the objector has any direct or indirect pecuniary interest in the refusal of the application or any expectation of such an interest, and
- (b) whether any person other than the objector is interested in the lodging of the objection and, if so:
 - (i) the name of each such person, and
 - (ii) where such a person is a proprietary company—the names of the directors and shareholders.

98 Grounds of objection

- (1) An objection to the granting of an application for a gaming-related licence may be made on one or more of the following grounds:
 - (a) that the applicant is not a fit and proper person to be the holder of a gaming-related licence,
 - (b) that a person who is, was or will be a close associate of the applicant is not a fit and proper person to be a close associate of the holder of a gaming-related licence,
 - (c) in the case of an application for the granting of a gaming-related licence to a body corporate—that a person who is directly or indirectly interested in the business, or the profits of the business, to be carried on under the proposed gaming-related licence is not a fit and proper person to be so interested,
 - (d) that it would not be in the public interest to grant the gaming-related licence.
- (2) If any such objection is made, the onus is on the applicant for the gaming-related licence to rebut the objection.
- (3) In addition to, or instead of, a ground specified in subsection (1), an objection to the granting of an application for a gaming-related licence may be made on one or more of the following grounds:
 - (a) that, during the period of 12 months that last preceded the making of the application, the applicant was convicted of carrying on an activity without being the holder of a gaming-related licence required for the lawful carrying on of that activity,
 - (b) that a gaming-related licence held by the applicant was cancelled during that period of 12 months,

- (c) that section 92, a requirement of the Director under section 95, or an order under section 96, has not been complied with.

99 Making of objection

- (1) An objection is made by lodging with the Licensing Court a notice in a form approved by the Board.
- (2) The notice must:
 - (a) specify the ground or grounds on which the objection is made, and
 - (b) be signed by each objector, and
 - (c) if the objection is made on the basis that a person is not a fit and proper person for a particular purpose—specify the reasons why the objector considers that the person is not a fit and proper person for that purpose.
- (3) Except as provided by subsection (4), an objection may not be heard and determined unless a copy of the notice of objection has been given to the applicant for the gaming-related licence and the registrar at least 3 clear days before the hearing of the application.
- (4) The Licensing Court may:
 - (a) subject to compliance with any conditions imposed by the Court, and
 - (b) if the applicant for the gaming-related licence so requests, subject to the hearing of the application for the licence being adjourned for such period of not less than 3 clear days as the Court thinks,

hear and determine an objection to the granting of the application for the licence that is made at the hearing of the application for the licence.
- (5) When hearing and determining an objection, the Licensing Court must admit into evidence and 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 Court.

100 Discretionary powers of Licensing Court

- (1) Despite the fact that an objection to the grant of an application for a gaming-related licence has not been made or, if made, has not been substantiated, the Licensing Court may refuse the application if it finds, after subsection (2) has been complied with, that reasons exist on which an objection could have been made and substantiated.
- (2) A finding under subsection (1) may be made only if:
 - (a) the applicant has been made aware of the reasons for the possibility of such a finding, and
 - (b) the applicant has been given an opportunity to make submissions, and adduce evidence, related to those reasons, and
 - (c) those reasons are, or include, the reasons for the finding.
- (3) Despite a finding by the Licensing Court that an objection to the grant of an application for a gaming-related licence on a ground other than a ground based on the unsuitability of the applicant, the public interest or a failure to comply with a requirement of the Director under section 95 has been substantiated, the Court has a discretion to grant the application for the licence.
- (4) The Licensing Court may grant an application even though an objection to the grant of the application has been substantiated on the ground of a failure to comply with a requirement of the Director under section 95, but only if the Court is satisfied that reasonable cause has been shown for the failure to comply with the requirement.

101 Granting of gaming-related licences

- (1) If an application for a gaming-related licence is granted, the Licensing Court may refuse to issue the licence until:
 - (a) the fee prescribed by the regulations for the granting of the licence has been paid to the Principal Registrar, and
 - (b) any condition that is required to be complied with before the licence has effect has been complied with.
- (2) The Licensing Court may stay the granting of a gaming-related licence:
 - (a) until the expiration of the period within which an appeal against the decision granting the licence may be made or the expiration of the period of 1 month that next succeeds the date of the decision, whichever is the later, and

- (b) where such an appeal is lodged—until the appeal is heard and determined or otherwise disposed of,
and may at any time terminate such a stay.
- (3) Except in so far as the Licensing Court otherwise directs either generally or in a particular case, the jurisdiction of the Licensing Court to grant an application under this Division may, in the case of an application to which, after investigation, there is no objection, be exercised by the Principal Registrar.

102 Granting of testing facility licence

- (1) A testing facility licence:
 - (a) if granted, is to be granted in respect of premises specified in the licence, and
 - (b) is not to be granted unless the application is supported by a certificate of the Board under subsection (2).
- (2) The Board may, if it thinks fit, certify that:
 - (a) a person specified in the certificate is, in the opinion of the Board, suitably qualified and competent to undertake the testing of poker machines and devices in the nature of approved amusement devices, and
 - (b) premises specified in the certificate are, in the opinion of the Board, suitable for the testing of poker machines and any such devices.

103 Form of gaming-related licences

The Board may:

- (a) approve a form of licence for each type of gaming-related licence, and
- (b) in a case where more than one gaming-related licence may be held by the same person—approve a form in which the licences may be granted or held at the same time.

104 Conditions of gaming-related licences

- (1) The Licensing Court may:
- (a) on the hearing of an application for the granting of a gaming-related licence or of any matter relating to a gaming-related licence—of its own motion or on the application of a party to the hearing, the Director or the Commissioner of Police, or
 - (b) at any other time—on the application of the Director or the Commissioner of Police,
- impose a condition not inconsistent with this Act without prior compliance with which the granting of the licence does not take effect or to which the licence is to be subject.
- (2) A gaming-related licence is subject to:
- (a) any conditions prescribed by the regulations, and
 - (b) a condition imposed under subsection (1), and
 - (c) a condition imposed by the Licensing Court on the hearing of a complaint under Part 8, and
 - (d) any other condition the Licensing Court or the Board is authorised by this Act to impose,
- whether or not the condition is endorsed on the licence.
- (3) The holder of a gaming-related licence must comply with any conditions to which the gaming-related licence is subject.
- Maximum penalty: 100 penalty units.
- (4) The Licensing Court may vary or revoke a condition (other than a condition prescribed by the regulations) to which a gaming-related licence is subject:
- (a) at any time on the application of the licensee, the Director or the Commissioner of Police, or
 - (b) at any time of its own motion, whether or not on the hearing of any matter relating to the licence.

105 Special condition relating to dealer's licence

The Licensing Court may impose a condition on a dealer's licence prohibiting the holder of the licence from using specified parts in the

manufacture of a poker machine by the holder of the licence unless the parts are made in Australia.

106 Board may require dealers to alter certain gaming machines

- (1) The Board may require the holder of a dealer's licence to arrange, at the expense of the dealer and within a specified time (or within such further time as the Board may allow), for a specified alteration to be made to an approved gaming machine that is to be, or has been, supplied by the licensee to a hotel or registered club.
- (2) It is a condition of a dealer's licence that the licensee complies with any such requirement.
- (3) A hotelier or registered club must allow the holder of a dealer's licence or technician's licence such access to an approved gaming machine in the hotel or club as may be required to enable the holder of the licence to comply with a requirement of the Board under this section.

Maximum penalty: 50 penalty units.

107 Duration of gaming-related licences

Except during any period of suspension, a gaming-related licence remains in force until such time as it is surrendered to the Board or it is sooner cancelled.

108 Periodic fee for gaming-related licences

- (1) A fee is payable to the Board for a gaming-related licence, and for a work permit, while the licence or permit is in force or under suspension and is so payable in respect of each period prescribed by the regulations for the purposes of this section.
- (2) Regulations may be made prescribing the fees payable under this section and for and with respect to:
 - (a) times for payment of the fees, and
 - (b) payment of the fees by instalments, and
 - (c) penalties for late payment of the fees or instalments, and
 - (d) suspension or cancellation of a gaming-related licence or work permit after a failure to pay such a fee, or an instalment of such a fee, relating to the licence or permit, and
 - (e) the circumstances in which such a fee, or a proportion of such a fee, may be refunded.

109 Cancellation for late payment of gaming-related licence fee

- (1) If the fee payable for a gaming-related licence has not been paid before the expiration of 2 months after the due date for payment, the licence is cancelled.
- (2) The former holder of a gaming-related licence that has been cancelled by the operation of this section must immediately deliver the licence to the Board.

Maximum penalty: 2 penalty units.

110 Application for reinstatement of gaming-related licence

- (1) The former holder of a gaming-related licence cancelled by the operation of section 109 may apply to the Licensing Court for the reinstatement of the licence.
- (2) Such an application must be made within 2 months after the cancellation of the licence. The application must be accompanied by payment of the unpaid licence fee concerned.
- (3) The regulations may make provision for or with respect to the manner in which such an application is to be made and lodged, the documents required to accompany the application and requiring payment of a fee in respect of the application.
- (4) The Licensing Court may reinstate the licence if it is satisfied that there is a reasonable explanation for the failure to pay the licence fee that resulted in cancellation of the licence. The Licensing Court is not to order reinstatement if it is of the opinion that the licence should not be reinstated.
- (5) The licence is reinstated on and from the day ordered by the Licensing Court.
- (6) If the application for reinstatement is not successful, the Board is to refund the licence fee paid with the application after deducting the amount (if any) that is the used portion of the licence fee, calculated in accordance with the following formula:

$$\text{used portion} = \text{full fee} \times \frac{\text{trading days}}{\text{the number of days in the licensing period concerned}}$$

where:

full fee is the full amount of the licence fee payable under section 108 in respect of the licensing period concerned.

trading days is the number of days since the start of the licensing period current when the licence was cancelled up to and including the date of cancellation or up to and including such other day as the Board may determine under subsection (7).

- (7) If the Board is satisfied that trading in exercise (or purported exercise) of the licence ceased on a particular day, the Board may determine that the number of trading days is to be calculated up to and including that day rather than up to and including the date of cancellation. The day determined by the Board may be before or after the date of cancellation.

111 Board may refund licence fees

On the suspension or cancellation of a gaming-related licence, the Board may, if it thinks fit, authorise the refund of the whole or such part of any fee paid in respect of the licence as the Board determines.

112 Refund of licence fee on surrender of gaming-related licence

- (1) If the surrender in writing of a gaming-related licence is accepted by the Board, an application may be made to the Board for a refund of part of any licence fee already paid for the licensing period during which the surrender was accepted.
- (2) The Board may, if it thinks fit, refund part of the licence fee.
- (3) The amount of any such refund is at the discretion of the Board but is not to exceed such amount as is proportionate to the unexpired portion of the licensing period in respect of which the licence fee was paid.
- (4) The Board is entitled to deduct from the refund a surrender fee fixed by the Board for the licence concerned.
- (5) Any refund payable under this section is to be paid to the person who, in the opinion of the Board, is entitled to the refund.

113 Periodic returns by gaming-related licensees

- (1) Within the period of one month after the expiration of each period prescribed by the regulations for the purposes of section 108, the holder of a gaming-related licence is to lodge with the Director a return that:

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- (a) is in a form approved by the Director, and
 - (b) is accompanied by such documents as may be prescribed by the regulations, and
 - (c) is signed by the licensee or, if the licensee is a corporation, by at least 2 directors of the corporation.
- (2) The form of return approved by the Director may be in the form of a statutory declaration.
- (3) Compliance with this section is a condition of a gaming-related licence.

Division 4 Key officials

114 Definition

In this Division:

key official means any of the following:

- (a) the Director-General, or
- (b) an officer of the Department of Gaming and Racing who is listed in Schedule 3B to the *Public Sector Management Act 1988*,
- (c) an officer of the Department of Gaming and Racing who is not referred to in paragraph (a) or (b) but is the subject of a current written order by the Director-General that has been served on the officer and is to the effect that the officer is a key official for the purposes of this Act,
- (d) the Director,
- (e) the Commissioner of Police,
- (f) a member of the Police Service Senior Executive Service,
- (g) a police officer who holds the position of Patrol Commander or a higher position but is not referred to in paragraph (e) or (f),
- (h) a member of the Police Service who is not referred to in paragraph (e), (f) or (g) but is the subject of a current written order by the Commissioner of Police that has been served on the member and is to the effect that the member is a key official for the purposes of this Act.

115 Restrictions on key officials in relation to gaming-related licences

- (1) A key official must not:
 - (a) hold any type of gaming-related licence under this Act, or
 - (b) solicit employment, in any capacity, from a holder of a gaming-related licence or a person known by the key official to be a close associate of a holder of such a licence, or
 - (c) be an employee, in any capacity, of a holder of a gaming-related licence or a person known by the key official to be a close associate of a holder of such a licence.
- (2) A person holding office as the Director-General, the Director or the Commissioner of Police must not knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a holder of a gaming-related licence or a person known by the holder of the office to be a close associate of a holder of such a licence.
- (3) A key official (other than the Director-General, the Director or the Commissioner of Police) must not without the approval of the appropriate authority knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a holder of a gaming-related licence or a person known by the key official to be a close associate of a holder of such a licence.
- (4) A holder of a gaming-related licence or a close associate of a holder of such a licence must not:
 - (a) employ, in any capacity, a person known by the licensee or close associate to be a key official, or
 - (b) knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a person known by the licensee or close associate to be the Director-General, the Director or the Commissioner of Police, or
 - (c) without the approval of the appropriate authority knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a person the licensee or close associate knows to be a key official (other than the Director-General, the Director or the Commissioner of Police).

- (5) A person who contravenes a provision of this section applicable to the person is guilty of an offence.

Maximum penalty: 50 penalty units.

- (6) In this section:

appropriate authority, in relation to a key official, means:

- (a) the Director-General, unless the key official is a member of the Police Service, or
- (b) the Commissioner of Police, if the key official is a member of the Police Service.

116 Former key officials

- (1) A former key official must not:

- (a) hold any type of gaming-related licence under this Act, or
- (b) solicit employment, in any capacity, from a holder of a gaming-related licence or a person known by the former key official to be a close associate of a holder of such a licence, or
- (c) be an employee, in any capacity, of a holder of a gaming-related licence or a person known by the former key official to be a close associate of a holder of such a licence, or
- (d) knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a holder of a gaming-related licence or a person known by the former key official to be a close associate of a holder of such a licence.

Maximum penalty: 50 penalty units.

- (2) While knowing that another person is a former key official, a person who holds a gaming-related licence, or a close associate of a holder of such a licence, must not:

- (a) employ the former key official in any capacity, or
- (b) have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, the former key official.

Maximum penalty: 50 penalty units.

- (3) An exemption from the application of this section in relation to a former key official (other than a person who is a former Director-General of the Department of Gaming and Racing, a former Director or a former Commissioner of Police) in a particular case or class of cases may be granted:
- (a) by the Director-General, unless the former key official was a member of the Police Service, or
 - (b) by the Commissioner of Police, if the former key official was a member of the Police Service.
- (4) The Director-General and the Commissioner of Police are each to keep at his or her office a register of exemptions granted by him or her under this section. The register is to contain details of each such exemption and is to be open for inspection by any person free of charge during ordinary business hours.
- (5) In this section:
former key official means a person who was a key official at any time during the previous 3 years, but is no longer a key official.
- (6) If a reference (*the original reference*) in this Act to a position, officer or Department is replaced with, or required to be read or construed as, a reference (*the replacement reference*) to another position, officer or Department, the replacement reference is for the purposes of the operation of this section to be read as including the original reference.

Division 5 Other provisions relating to gaming-related licences

117 Keeping of records

- (1) If the holder of a gaming-related licence is a corporation, it is a condition of the licence that the licensee keep the records prescribed by the regulations that relate to the business carried on under the licence at the registered or principal office of the corporation under section 142 or 601CT of the *Corporations Act 2001* of the Commonwealth.
- (2) If the holder of a gaming-related licence is not a corporation or an employee, it is a condition of the licence that the licensee maintain at least one place of business in the State and keep the records prescribed

by the regulations that relate to the business carried on under the licence:

- (a) if only one place of business is maintained in the State—at that place, or
- (b) if more than one place of business is maintained in the State—at the principal such place.

118 Control of business carried on under gaming-related licence

- (1) If a person (other than a licensee or a financial institution) becomes interested in the business, or the profits of the business, carried on under a gaming-related licence, it is a condition of the gaming-related licence that the licensee must, within 28 days after the other person's becoming so interested, produce to the Principal Registrar an affidavit stating:
 - (a) that the licensee has made all reasonable inquiries to ascertain the information required to complete the affidavit, 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.
- (2) For the purposes of subsection (1), 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:
 - (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.
- (3) This section does not apply to a licence held as an employee.

119 Standards of competence

The regulations may make provision for and with respect to standards of competence to be established or attained by an applicant for, or holder of, a gaming-related licence of a particular type.

120 Lost or destroyed gaming-related licence

The Principal Registrar may, if satisfied that a gaming-related licence has been lost or destroyed, issue a duplicate of the licence on payment of the fee prescribed by the regulations.

121 Compliance plate for gaming machines

- (1) The holder of a dealer's licence is guilty of an offence if a poker machine or approved amusement device leaves the licensee's premises without a compliance plate that complies with this section and is securely attached to the poker machine or device in a manner approved by the Board.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence under this section if it is proved that the defendant had taken all reasonable precautions aimed at ensuring attachment of a compliance plate and, at the time of the offence, did not know, and had no reason to suspect, that a compliance plate was not securely attached to the poker machine or approved amusement device in the manner approved by the Board.
- (3) Exemption from the operation of this section may be granted by the Board in a particular case or a particular class of cases.
- (4) In this section:

compliance plate, in relation to a poker machine or approved amusement device, means a plate that:

- (a) is made of a substance approved by the Board, and
- (b) is of dimensions not less than dimensions approved by the Board, and
- (c) may readily be seen and inspected, and
- (d) shows the name of the dealer, the dealer's licence number, the serial number of the poker machine or device and the month and year of the manufacture and assembly of the poker machine or device, and
- (e) has those particulars incorporated in a manner approved by the Board and in symbols that are at least of a minimum size approved by the Board.

122 Provision of financial assistance by gaming-related licensee

- (1) The holder of a gaming-related licence must not enter into a transaction in respect of which the licensee:
- (a) provides financial assistance to a hotelier or registered club, or
 - (b) guarantees the observance by a hotelier or registered club of a term or condition on which financial assistance is provided to the hotelier or club by a person other than the licensee, or
 - (c) indemnifies any person against any loss suffered in relation to financial assistance provided to a hotelier or registered club,
- unless the transaction has been approved by the Board in writing.

Maximum penalty: 20 penalty units.

- (2) The holder of a gaming-related licence must not, unless with the Board's written approval, agree to a variation of a term or condition of a transaction under this section that has been approved by the Board.

Maximum penalty: 20 penalty units.

- (3) The holder of a gaming-related licence is guilty of an offence if:
- (a) financial arrangements made by the licensee have been approved by the Board, and
 - (b) there is a change in those arrangements that has not been approved by the Board, and
 - (c) the Board is not notified of the change immediately after it comes to the notice of the licensee.

Maximum penalty: 20 penalty units.

123 Cessation of employment of seller, technician or adviser

Not later than 7 days after the termination of a contract of service, or a contract for services, to which the parties are:

- (a) the holder of a seller's licence, technician's licence or adviser's licence, and
- (b) the holder of another gaming-related licence, a hotelier or a registered club,

the party referred to in paragraph (b) must notify the Board in the manner prescribed by the regulations.

Maximum penalty: 20 penalty units.

124 Notification of change of employer

If a person who is the holder of a seller's licence or technician's licence commences or ceases employment with the holder of a dealer's licence, the person must, before the commencement of or within 7 days after the cessation of the employment, as the case may be, give to the Principal Registrar notification in a form approved by the Principal Registrar of the commencement or cessation of the employment.

Maximum penalty: 20 penalty units.

125 Change in state of affairs of gaming-related licensee

If a change of a kind prescribed by the regulations takes place in the state of affairs of the holder of a gaming-related licence, the licensee must, within 14 days of the change taking place, notify the Director of such particulars in relation to the change as are prescribed by the regulations.

Maximum penalty: 20 penalty units.

126 Gaming-related licensee to display identification

- (1) The holder of a dealer's licence or technician's licence must, at any time while servicing, repairing or maintaining an approved gaming machine in a hotel or registered club, wear a clearly visible form of identification as approved by the Board.

Maximum penalty: 20 penalty units.

- (2) If the holder of a dealer's licence is a corporation, a reference in this section to the holder of the licence includes a reference to a person acting under the authority of the licence.
- (3) The Board may exempt a person or the members of a class of persons from the operation of this section.

Part 8 Complaints and disciplinary action

127 Interpretation

- (1) In this Part, a reference to a hotelier includes a reference to a former hotelier.
- (2) This Part applies to a former holder of a gaming-related licence in the same way as it applies to a person who for the time being is the holder of a gaming-related licence.
- (3) For the purposes of this Part, a reference to a conviction for an offence under this Act or the regulations does not include a reference to a conviction for an offence prescribed by the regulations for the purposes of this section.

128 Director may carry out investigations in relation to proposed complaint

- (1) The Director may carry out such investigations and inquiries as are considered by the Director to be necessary in order to ascertain whether a complaint should be made under this Part against any of the following:
 - (a) a hotelier,
 - (b) a registered club,
 - (c) the holder of a gaming-related licence (referred to in this Part as *a licensee*),
 - (d) a close associate of a hotelier or licensee.
- (2) The Commissioner of Police is to inquire into, and report to the Director on, such matters as the Director may request concerning the hotelier, registered club, licensee or close associate to whom or to which the complaint, if made, would relate.
- (3) The Director may, by notice in writing, require a hotelier, registered club, licensee or close associate who or which is the subject of an investigation under this section 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 about the person under investigation and that person's 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.

129 Grounds for making complaint

- (1) A complaint against a hotelier, registered club, licensee or close associate may be made to the Licensing Court by:
- (a) the Commissioner of Police, or
 - (b) the Director, or
 - (c) a person authorised by the regulations to make a complaint under this Part.
- (2) A complaint must be in writing and specify the grounds on which it is made.
- (3) The grounds on which a complaint in relation to a hotelier, registered club or licensee may be made are as follows:
- (a) that the hotelier, registered club or licensee:
 - (i) has contravened a provision of this Act or the regulations, or
 - (ii) has failed to comply with any requirement under this Act or the regulations that relates to the hotelier, club or licensee, or
 - (iii) has been convicted of an offence under this Act or the regulations or of an offence prescribed by the regulations for the purposes of this section,
 - (b) that the hotelier or registered club has engaged in conduct that has encouraged, or is likely to encourage, the misuse and abuse of gambling activities in the hotel or club,

- (c) that the hotelier or registered club has failed to comply with any of the conditions to which an authorisation under Part 5 is subject (including, in the case of a hotelier, the condition that the hotelier comply with the primary purpose test in respect of the hotel),
- (d) that the hotelier has failed to comply with any provision of the *Liquor Act 1982* that relates to gambling in any way and that is prescribed by the regulations under this Act for the purposes of this paragraph,
- (e) that the registered club has failed to comply with any provision of the *Registered Clubs Act 1976* that relates to gambling in any way and that is prescribed by the regulations under this Act for the purposes of this paragraph,
- (f) that a requirement of the Director made in relation to the investigation of the hotelier, registered club or licensee has not been complied with,
- (g) that the licensee:
 - (i) has failed to comply with a condition of the gaming-related licence held by the licensee, or
 - (ii) has failed to comply with an order or direction of the Board, or
 - (iii) has failed to make due payment of a penalty for late payment of a fee in accordance with this Act, or
 - (iv) is no longer a fit and proper person to hold a gaming-related licence,
- (h) that a person named in the complaint is, was or will be a close associate of the licensee and is not a fit and proper person to be a close associate of a licensee,
- (i) that a specified person named in affidavit under section 91 or 118 is not a fit or proper person to be interested in the gaming-related licence or in the business or the profits of the business carried on under the licence,
- (j) that the gaming-related licence has not been exercised in the public interest,
- (k) that the continuation of the gaming-related licence is not in the public interest.

- (4) A particular failure to comply with a condition of a gaming-related licence may not be the subject of both a complaint under this section and proceedings for an offence.
- (5) The grounds on which a complaint may be made in relation to a person who is a close associate of a hotelier or licensee are as follows:
 - (a) that the close associate is not a fit and proper person to be a close associate of a hotelier or licensee,
 - (b) that a complaint against the hotelier or licensee under this section has been established and that:
 - (i) the close associate knew or ought reasonably to have known that the hotelier or licensee was engaging or was likely to engage in conduct of the kind to which the complaint relates, and
 - (ii) the close associate failed to take all reasonable steps to prevent the hotelier or licensee from engaging in conduct of that kind,
 - (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.

130 Summons to show cause why disciplinary action should not be taken

- (1) If a complaint against a hotelier, registered club, licensee or close associate is made under section 129, the Licensing Court may summon the person to whom or to which the complaint relates to appear before the Licensing Court to answer the complaint and show cause why disciplinary action should not be taken under section 131.
- (2) A summons under this section:
 - (a) is to specify the grounds of the complaint, and
 - (b) if a ground of complaint is based on a person not being a fit and proper person for any purpose or based on the public interest—is to specify the reasons given by the complainant for making the complaint on that ground, and
 - (c) is to be served on the person the subject of the complaint not less than 14 days before the day appointed for the hearing of the complaint.

- (3) In the case of a complaint against a licensee, the complainant is to cause a copy of the complaint to be served by post on each person named:
- (a) in the affidavit referred to in section 91 that accompanied the application for the gaming-related licence, and
 - (b) in any affidavit produced to the Principal Registrar by the licensee in accordance with section 118,
- and each person so named may, at the hearing of the complaint, be represented and be heard.

131 Disciplinary powers of Licensing Court

- (1) The Licensing Court may hear and determine the matter of a complaint that is made to it.
- (2) If the Licensing Court is satisfied that any of the grounds on which the complaint was made has been made out, the Court may decide to do any one or more of the following:
 - (a) order the hotelier or licensee to pay a penalty not exceeding 500 penalty units (in the case of a corporation) or 200 penalty units (in any other case) or, if circumstances of aggravation exist in relation to the complaint, a penalty not exceeding 1,000 penalty units (in the case of a corporation) or 400 penalty units (in any other case),
 - (b) order the registered club to pay a penalty not exceeding 2,500 penalty units or, if circumstances of aggravation exist in relation to the complaint, a penalty not exceeding 5,000 penalty units,
 - (c) if the ground made out is the ground referred to in section 129 (3) (a), (b) or (c):
 - (i) cancel, suspend or modify any authorisation or approval under this Act for the hotelier or registered club to keep approved gaming machines, or
 - (ii) disqualify the hotelier or registered club from keeping approved gaming machines for such period as the Court thinks fit, or
 - (iii) cancel the hotelier's licence under the *Liquor Act 1982* or the certificate of registration of the club under the *Registered Clubs Act 1976*, or
 - (iv) suspend the hotelier's licence or certificate of registration of the club for such period as the Court thinks fit,

- (d) cancel the gaming-related licence or suspend the gaming-related licence for such period as the Court thinks fit,
 - (e) impose or vary a condition to which the gaming-related licence is subject,
 - (f) disqualify the licensee from holding a gaming-related licence for such period as the Court thinks fit,
 - (g) disqualify the close associate from being a close associate of a hotelier or licensee for such period as the Licensing Court thinks fit,
 - (h) disqualify the close associate from holding a gaming-related licence for such period as the Licensing Court thinks fit,
 - (i) order the close associate to pay to the Crown a monetary penalty not exceeding 500 penalty units in the case of a corporation or 200 penalty units in any other case,
 - (j) reprimand the hotelier, registered club, licensee or close associate.
- (3) If one of the grounds made out is the ground referred to in section 129 (3) (b), the Licensing Court is, without limiting any of the Court's other powers under subsection (2), required to consider taking the disciplinary action referred to in subsection (2) (c) (i).
- (4) For the purposes of this section, circumstances of aggravation exist in relation to a complaint if any of the following paragraphs applies:
- (a) 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 Licensing Court when circumstances of aggravation exist,
 - (b) the Court, in finding that the matter of the complaint has been made out, is of the opinion (having regard to such matters as the number and seriousness of the contraventions involved, the number of people involved in the contravention, the seriousness of the outcome of the contravention, or other relevant considerations) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Court when circumstances of aggravation exist.

- (5) In hearing and determining the matter of a complaint, the Licensing Court must admit into evidence and 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 Licensing Court.
- (6) If an order for the payment of money is made under this section and the prescribed documents are filed in the office of a Local Court having jurisdiction under the *Local Courts (Civil Claims) Act 1970*, the order may be enforced as if it were a judgment of that Local Court for the payment of the money in accordance with the order.

Part 9 Authorised CMS

132 Meaning of “connected” to an authorised CMS

- (1) For the purposes of this Part, an approved gaming machine is *connected* to an authorised CMS if arrangements of a kind approved by the Minister are in place for the provision of information in respect of the gaming machine that enables the functions of the authorised CMS to be performed in relation to the gaming machine.
- (2) The arrangements that the Minister approves for the purposes of this section can involve the provision of information by any means, such as, and without limiting the generality of subsection (1), by means of any of the following:
 - (a) the direct provision of information by electronic data transfer,
 - (b) the provision of information by means of the lodgment of reports or returns (whether or not electronically),
 - (c) the provision of information by persons acting as information collectors and processors for hoteliers and registered clubs.
- (3) Such arrangements may make provision for or with respect to the time within which, and the person to whom, information is to be furnished.
- (4) Different arrangements can be approved under this section in respect of different premises or classes of premises or different approved gaming machines or classes of approved gaming machines.

133 Requirement for gaming machines to be connected to authorised CMS

- (1) This section applies to such approved gaming machines as are of a class or classes of approved gaming machines identified by the Minister as being capable of connection to an authorised CMS.
- (2) A hotelier or registered club who or which keeps an approved gaming machine to which this section applies must ensure that the gaming machine is connected to an authorised CMS.

Maximum penalty: 100 penalty units.

- (3) A hotelier or registered club must, to the extent necessary to enable approved gaming machines that are kept in the hotel or club to be connected to an authorised CMS:

- (a) permit the employees and agents of the CMS licensee to have access to those gaming machines, and
- (b) give assistance to the employees and agents of the CMS licensee.

Maximum penalty: 100 penalty units.

134 Monitoring fee payable by hoteliers and registered clubs to CMS licensee

- (1) A hotelier or registered club must pay a monitoring fee in respect of each approved gaming machine that:
- (a) is kept in the hotel or club, and
 - (b) is connected to an authorised CMS.

Maximum penalty: 100 penalty units.

- (2) The monitoring fee is payable by the hotelier or registered club concerned:
- (a) in accordance with such arrangements (eg by way of electronic transfer from a nominated account) as may be made between the hotelier and the CMS licensee, or between the registered club and the CMS licensee, or
 - (b) if no such arrangements are made, in accordance with such other arrangements as may be approved by the Board.
- (3) The amount of any fee payable under this section is to be determined by the Minister from time to time in consultation with the Treasurer, and in consultation with the Independent Pricing and Regulatory Tribunal pursuant to such arrangements as may be entered into under section 9 (1) (b) of the *Independent Pricing and Regulatory Tribunal Act 1992*.
- (4) The CMS licensee is entitled to recover any unpaid monitoring fee as a debt.

135 Operation of authorised CMS

A CMS licensee who operates an authorised CMS is guilty of an offence if the CMS is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty: 100 penalty units.

136 Grant of CMS licence

- (1) The Minister may, after considering an application under Part 12 for a CMS licence:
 - (a) grant a CMS licence to the person making the application, or
 - (b) refuse to grant a licence.
- (2) A CMS licence is subject to such conditions as are imposed under this Act or as are determined by the Minister and specified in the licence.
- (3) Any subsidiary equipment to be used in connection with an authorised CMS that has, under the terms of the CMS licence, been approved by the Minister is taken to be subsidiary equipment approved by the Board for that purpose.
- (4) A CMS licence is subject to a condition that the CMS licensee must have in place, and must give effect to, commercial arrangements with the racing industry in respect of the licence and the conduct of activities authorised by the licence, being arrangements that are both:
 - (a) approved by the Minister, having regard to the interests of the racing industry, hotels and registered clubs, and
 - (b) acknowledged by the racing industry in writing to the Minister to be to the satisfaction of the racing industry.
- (5) For the purposes of subsection (4), *the racing industry* comprises such one or more persons as the controlling bodies and major racing bodies (within the meaning of the *Totalizator Act 1997*) nominate in writing to the Minister for the purposes of the licence concerned. The nomination can be changed by fresh nomination in writing to the Minister, but only if the licensee consents to the fresh nomination.
- (6) A CMS licence may be granted to one person or 2 or more persons jointly.
- (7) A CMS licence cannot be transferred.
- (8) A CMS licence remains in force for the period for which it was granted, as specified by the Minister in the CMS licence, unless sooner cancelled or surrendered.

137 TAB entitled to CMS licence during exclusive licence period

- (1) In this section:
exclusive licence period means the period up to 1 December 2016.
- (2) TAB or a wholly owned subsidiary of TAB is entitled to a CMS licence (*the exclusive CMS licence*) during the exclusive licence period to operate a CMS.
- (3) No other person may be granted a licence to operate a CMS during the exclusive licence period.
- (4) Subsections (2) and (3) cease to apply if the exclusive CMS licence is cancelled or surrendered in accordance with this Part or otherwise ceases to be in force.
- (5) Nothing in any other Act prevents TAB from operating a CMS under the authority of a CMS licence, or from carrying out any of its functions as a CMS licensee.
- (6) Nothing in this section is intended to prevent TAB or any other person (assuming that they are otherwise qualified) from applying for and being granted a licence in respect of any period after the end of the exclusive licence period.

138 Alterations of conditions of CMS licence

- (1) The Minister may, while a CMS licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking a condition.
- (2) The Minister must not make an alteration under this section unless the Minister:
 - (a) has given the CMS licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
 - (b) has, after the end of that period, considered any representations so made by or on behalf of the licensee.
- (3) An alteration under this section takes effect:
 - (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
 - (b) if a later day is specified in the notice—on that day.

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- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

139 Control of information obtained by CMS licensee

- (1) A CMS licensee and any director, officer, employee or agent of a CMS licensee who acquires CMS information must not make use of CMS information or directly or indirectly make a record of or divulge it to another person except:
- (a) in the course of and for the purposes of the operation of an authorised CMS, or
 - (b) as may be authorised by the regulations.

Maximum penalty: 50 penalty units.

- (2) A CMS licensee must not use or divulge any CMS information (whether or not in the course of or for the purposes of the operation of an authorised CMS) in contravention of the regulations.

Maximum penalty: 100 penalty units.

- (3) The regulations may make provision for or with respect to the following:
- (a) authorising the recording, divulging and use of CMS information,
 - (b) imposing restrictions, including prohibitions, on the use of CMS information by a CMS licensee (whether or not that use is in the course of or for the purposes of the operation of an authorised CMS),
 - (c) requiring the payment of fees in connection with the use or divulging of CMS information, and providing for the person to whom any such fee is to be paid (including the State) and for the recovery of any unpaid fees.

- (4) The provisions of section 206 (2)–(7) extend to information to which this section applies as if they formed part of this section, but with subsection (4) of that section modified to read as follows:

- (4) An authority or person to which or to whom information is divulged under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties

under this section as the authority or person would be if that authority, person or employee were an employee of a CMS licensee and had acquired the information in the course of the operation of an authorised CMS.

(5) In this section:

CMS information means information acquired in the course of the operation of an authorised CMS.

140 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
- (b) do anything that is calculated, or is likely, to interfere with the normal operation of an authorised CMS.

Maximum penalty: 100 penalty units.

(2) Subsection (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 CMS licensee who is operating the authorised CMS, or
- (b) the holder of a technician's licence, or
- (c) any other person approved by the CMS licensee.

(3) A person must not gain, whether personally or for another person, an advantage in the operation of an approved gaming machine that is connected to an authorised CMS as the result of knowing about any faulty or fraudulent computer programming in relation to the CMS.

Maximum penalty: 100 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 section.

Maximum penalty: 100 penalty units.

Part 10 Linked gaming systems

Division 1 Preliminary

141 Definitions

In this Part:

authorised inter-club linked gaming system means a linked gaming system that:

- (a) is operated under the authority of an inter-club links licence, and
- (b) has been authorised by the Minister to be installed in a registered club in accordance with such requirements as may be prescribed by the regulations.

authorised inter-hotel linked gaming system means a linked gaming system that:

- (a) is operated under the authority of an inter-hotel links licence, and
- (b) has been authorised by the Minister to be installed in a hotel in accordance with such requirements as may be prescribed by the regulations.

exclusive licence period means the period ending 15 years after a date declared by the Minister by order published in the Gazette to be the operative date for the purposes of this Part.

licensee means the holder of a links licence.

linked gaming system means a system in which 2 or more specially approved gaming machines are linked electronically to contribute a percentage of the money wagered on the gaming devices to a separate jackpot pool, and includes any communications network, infrastructure and equipment that is subsidiary to, or used in connection with, the system.

operate a linked gaming system includes supply, organise or manage the linked gaming system.

participating club means a registered club participating in an authorised inter-club linked gaming system.

participating hotelier means a hotelier whose hotel is part of an authorised inter-hotel linked gaming system.

specially approved gaming machine means an approved gaming machine that:

- (a) complies with the guidelines issued by the Minister for linked gaming systems, and
- (b) is of a class of approved gaming machines specially approved by the Board for the purposes of this Part.

142 Operation of Part

- (1) The provisions of this Part prevail to the extent of any inconsistency with any other provision of this Act.
- (2) Without limiting subsection (1), a provision of this Act that would, but for this section, prevent:
 - (a) the supply, under the authority of a links licence, of any approved gaming machine or equipment necessary or ancillary to the operation of a linked gaming system, or
 - (b) financing of the acquisition, by a hotelier or registered club, of any such approved gaming machine or equipment, or
 - (c) the possession by a licensee of any such approved gaming machine or equipment, or
 - (d) any other activity authorised by a links licence or prescribed by the regulations to be ancillary to an activity so authorised,does not operate to prevent it.
- (3) The regulations may make provision for the conditional or unconditional exemption of hoteliers or registered clubs from any specified provisions of this Act or the regulations that would otherwise prevent the carrying on by a licensee of an activity referred to in subsection (2).

Division 2 Inter-hotel linked gaming systems

143 Division does not apply to intra-hotel linked gaming systems

This Division applies in relation to a linked gaming system operated in a hotel only if the linked gaming system includes a specially approved gaming machine that is kept and operated in another hotel.

144 Keeping of gaming machines in linked gaming system

- (1) If an approved gaming machine in a hotel is kept and operated as part of a linked gaming system that is not an authorised inter-hotel linked gaming system, section 7 does not apply to the keeping and operation of the gaming machine.
- (2) The fact that an authorised inter-hotel linked gaming system extends beyond the premises of particular hotel does not mean that an approved gaming machine that is part of the linked gaming system and operated in the hotel is not an approved gaming machine in the hotel.

145 Requirement for licence to operate inter-hotel linked gaming system

- (1) A person must not operate a linked gaming system in a hotel unless the person is the holder of an inter-hotel links licence authorising the person to operate the linked gaming system.

Maximum penalty: 100 penalty units.

- (2) A person does not commit an offence under this section if the person is only carrying out activities involving the preliminary development and testing of a linked gaming system and those activities have been approved by the Minister.

146 Unlawful operation of inter-hotel linked gaming system by licensee

A licensee who operates a linked gaming system in a hotel is guilty of an offence if the linked gaming system is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty: 100 penalty units.

147 TAB entitled to inter-hotel linked gaming system licence during exclusive licence period

- (1) TAB or a wholly owned subsidiary of TAB is entitled, during the exclusive licence period, to an inter-hotel links licence (*the exclusive licence*).
- (2) No other person may be granted an inter-hotel links licence during the exclusive licence period.
- (3) Subsections (1) and (2) cease to apply if the exclusive licence is cancelled or surrendered in accordance with this Part or otherwise ceases to be in force.

- (4) No application under this Part is required for the purposes of the grant of a licence for which there is an entitlement under this section.
- (5) Nothing in any other Act prevents TAB from operating a linked gaming system in a hotel under the authority of an inter-hotel links licence, or from carrying out any of its functions as a licensee.
- (6) Nothing in this section is intended to prevent TAB or any other person (assuming that they are otherwise qualified) from applying for and being granted an inter-hotel links licence in respect of any period after the exclusive licence period.

Division 3 Inter-club linked gaming systems

148 Division does not apply to intra-club linked gaming systems

This Division applies in relation to a linked gaming system operated on the premises of a registered club only if the linked gaming system includes a specially approved gaming machine kept and operated on the premises of another registered club.

149 Keeping of gaming machines in linked gaming system

- (1) If an approved gaming machine in a registered club is kept and operated as part of a linked gaming system that is not an authorised inter-club linked gaming system, section 7 does not apply to the keeping and operation of the approved gaming machine.
- (2) The fact that an authorised inter-club linked gaming system extends beyond the premises of a registered club does not mean that an approved gaming machine that is part of the linked gaming system and operated on the premises is not an approved gaming machine on the premises.

150 Requirement for licence to operate inter-club linked gaming system

- (1) A person must not operate a linked gaming system in a registered club unless the person is the holder of an inter-club links licence authorising the person to operate the linked gaming system.

Maximum penalty: 100 penalty units.

- (2) A person does not commit an offence under this section if the person is only carrying out activities involving the preliminary development and testing of a linked gaming system and those activities have been approved by the Minister.

151 Unlawful operation of inter-club linked gaming system by licensee

A licensee who operates a linked gaming system in a registered club is guilty of an offence if the linked gaming system is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty: 100 penalty units.

152 TAB entitled to inter-club linked gaming system licence during exclusive licence period

- (1) TAB or a wholly owned subsidiary of TAB is entitled, during the exclusive licence period, to an inter-club links licence (*the exclusive licence*).
- (2) No other person may be granted an inter-club links licence during the exclusive licence period.
- (3) Subsections (1) and (2) cease to apply if the exclusive licence is cancelled or surrendered in accordance with this Part or otherwise ceases to be in force.
- (4) No application under this Part is required for the purposes of the grant of a licence for which there is an entitlement under this section.
- (5) Nothing in any other Act prevents TAB from operating a linked gaming system in a registered club under the authority of an inter-club links licence, or from carrying out any of its functions as a licensee.
- (6) Nothing in this section is intended to prevent TAB or any other person (assuming that they are otherwise qualified) from applying for and being granted an inter-club links licence in respect of any period after the exclusive licence period.

Division 4 General provisions

153 Granting of links licences

- (1) The Minister may, after considering an application for a links licence:
 - (a) grant a links licence to the person making the application, or
 - (b) refuse to grant a links licence.
- (2) The Minister may grant a links licence subject to any conditions determined by the Minister and specified in the links licence.
- (3) A links licence is subject to a condition that the licensee must have in place and must give effect to commercial arrangements with the racing industry in respect of the licence and the conduct of activities authorised by the licence, being arrangements that are both:
 - (a) approved by the Minister, having regard to the interests of the racing industry, hotels and registered clubs, and
 - (b) acknowledged by the racing industry in writing to the Minister to be to the satisfaction of the racing industry.
- (4) For the purposes of subsection (3), *the racing industry* comprises such one or more persons as the controlling bodies and major racing bodies (within the meaning of the *Totalizator Act 1997*) nominate in writing to the Minister for the purposes of the licence concerned. The nomination can be changed by fresh nomination in writing to the Minister, but only if the licensee consents to the fresh nomination.
- (5) In deciding whether to grant a links licence, the Minister may have regard to the following matters:
 - (a) the need to balance the public interest with private sector commercial interests,
 - (b) whether the integrity and regularity of the operation of the linked gaming system can be ensured,
 - (c) the need to provide flexibility in respect of commercial gaming activities,
 - (d) the need to provide equal opportunities for hotels, or for registered clubs, to participate in the linked gaming system concerned, including those hotels or registered clubs situated in remote areas.

- (6) Subsection (5) does not limit the factors that the Minister may take into account in determining whether or not to grant a links licence.
- (7) A links licence may be granted to one person or 2 or more persons jointly.

154 Conditions of links licences

- (1) The conditions of a links licence may include, in addition to any other conditions referred to in this Part, conditions relating to the following:
 - (a) in the case of a links licence authorising an inter-hotel linked gaming system—the number of participating hoteliers involved in the linked gaming system,
 - (b) in the case of a links licence authorising an inter-club linked gaming system—the number of participating clubs involved in the linked gaming system,
 - (c) the number of approved gaming machines that may be part of the linked gaming system concerned,
 - (d) the minimum and maximum amounts of jackpot prizes to be paid in connection with the linked gaming system,
 - (e) the financial arrangements with respect to jackpot prize pools and the establishment by the licensee of a special account relating to jackpot prize pools,
 - (f) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the operation of the linked gaming system (including the operating costs and other costs incurred by the licensee in operating the linked gaming system),
 - (g) the times at which, and the form in which, the information required under paragraph (f) must be furnished to the Minister,
 - (h) the auditing of the financial records of the licensee relating to the operation of the linked gaming system (including records of the operating costs and other costs incurred by the licensee in operating the linked gaming system),
 - (i) the approval by the Minister of contracts or arrangements, entered into by the licensee, for the purpose of operating the linked gaming system,

- (j) the approval by the Minister of persons engaged in the repair or maintenance of any equipment used in relation to the operation of the linked gaming system,
 - (k) the security requirements in respect of the linked gaming system,
 - (l) any other matters that the Minister thinks fit or that may be prescribed by the regulations.
- (2) A links licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this Part.

155 Alteration of conditions of links licences

- (1) The Minister may, while a links licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking a condition.
- (2) An alteration may not be made under this section unless the Minister:
- (a) has given the licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
 - (b) has, after the end of that period, considered any representations so made by or on behalf of the licensee.
- (3) An alteration under this section takes effect:
- (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
 - (b) if a later day is specified in the notice—on that day.
- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

156 Unlawful interference with authorised 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 approved gaming machine 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 approved gaming machine that is part of the system), or
 - (c) do anything calculated to render an approved gaming machine that is part of an authorised linked gaming system incapable, even temporarily, of producing a winning combination.
- (2) Subsection (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) the holder of a technician's licence, 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 an approved gaming machine 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 machine as that to be used to operate the machine, or
 - (b) a bank note of a denomination approved by the Board for use in order to operate the gaming machine, or
 - (c) a card of a type approved by the Board for use in order to operate the gaming machine.
- (4) A person must not gain, whether personally or for another person, an advantage in the operation of an approved gaming machine 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 section.

Maximum penalty: 100 penalty units.

157 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.
- (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.
- (3) A person must not do anything to an authorised linked gaming system in order to conceal anything that is an offence under subsection (1) or (2).
- (4) A person must not authorise or permit another person to act in a way that is an offence under another provision of this section.

Maximum penalty: 100 penalty units.

158 Removal of linked gaming system from hotels or clubs

- (1) A person (including a participating hotelier or participating club) 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 or registered club.

Maximum penalty: 100 penalty units.

- (2) Subsection (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.

Part 11 Investment licences

159 Definitions

In this Part:

exclusive licence means the investment licence to which TAB is entitled under this Part.

exclusivity period means the period up to 30 June 2013.

licensee means the holder of an investment licence.

160 Investment licences authorising sale and supply of gaming machines and investment in profits from them

- (1) An investment licence may be granted under this Part authorising the licensee to acquire approved gaming machines and, on such terms as may be agreed between the licensee and a hotelier, to do any one or more of the following:
 - (a) to supply approved gaming machines to the hotelier,
 - (b) to finance the acquisition by the hotelier of one or more approved gaming machines,
 - (c) to share in the profits derived from the operation of an approved gaming machine supplied by, or whose acquisition is financed by, the licensee,and to carry on such ancillary activities as may be specified in the licence.
- (2) To the extent permitted by the investment licence, the licensee may under a contract or other arrangement engage a person to act as its agent or to perform any service in connection with an activity authorised by the licence.
- (3) Nothing in this or any other Act operates to prevent:
 - (a) the possession by a licensee of approved gaming machines, the sale or supply of such machines by the licensee to hoteliers or the financing by the licensee of the hotelier's acquisition of such machines, or
 - (b) the sharing between a hotelier and the licensee of profits derived from such machines, or

- (c) the carrying on of:
 - (i) any activity authorised by the licence, or
 - (ii) any activity prescribed by the regulations to be ancillary to an activity authorised by the licence.
- (4) The regulations may provide for the conditional or unconditional exemption of hoteliers from any specified provisions of this Act or the regulations that would otherwise prevent the carrying on by the licensee of an activity referred to in subsection (3).
- (5) Nothing in this section affects:
 - (a) the overall State cap, and
 - (b) the limitation imposed under section 11 on the number of approved gaming machines that may be kept in a hotel, or
 - (c) the operation of any regulation made for the purposes of this Part prescribing any matter or thing as a condition of an investment licence.

161 Exclusive investment licence

- (1) TAB or a wholly owned subsidiary of TAB is entitled to be granted an investment licence authorising the carrying on, during the exclusivity period, of the activities authorised by the licence.
- (2) No other person may be granted an investment licence during the exclusivity period.
- (3) The Minister may, in the Minister's absolute discretion, grant the exclusive licence for a term that is longer than the exclusivity period.
- (4) This section ceases to apply if the exclusive licence is cancelled or otherwise ceases to have effect under this Act.
- (5) No application under this Part is required for the purposes of the grant pursuant to this section of the exclusive licence (whether it is granted for the exclusivity period or for a longer period).
- (6) Nothing in this Part prevents the grant, on application duly made, of a further investment licence to TAB.

162 Joint venture

Subject to the regulations and to the conditions of its exclusive licence, TAB may enter into a joint venture with the Australian Hotels Association (NSW), or any company wholly owned by the Association, in relation to the business of carrying on some or all of the activities authorised by TAB's exclusive licence.

163 Grant of investment licence

- (1) The Minister may, after considering an application for an investment licence:
 - (a) grant an investment licence to the person making the application, or
 - (b) refuse to grant the licence.
- (2) An investment licence is subject to such conditions as are imposed by or under this Act or as are determined by the Minister and specified in the licence.

164 Conditions of investment licence

The conditions that may be imposed by the Minister on an investment licence include (but are not limited to) conditions relating to the following:

- (a) the appointment of, and the making of probity checks in respect of, contractors, joint venturers and other persons,
- (b) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the carrying on of any activity authorised by the licence,
- (c) the time or times at which, and the form in which, the information required under paragraph (b) must be furnished to the Minister,
- (d) the auditing of the financial records of the licensee relating to the carrying on of activities authorised by the licence.

165 Amendment of conditions of investment licence

- (1) The Minister may amend the conditions of an investment licence in accordance with this section.

- (2) The conditions may be amended by being substituted, varied, revoked or added to.
- (3) An amendment may be proposed:
 - (a) by the licensee by requesting the Minister in writing to make the amendment, or
 - (b) by the Minister by giving notice in writing of the proposed amendment to the licensee and giving the licensee at least 14 days to make submissions to the Minister concerning the proposed amendment.
- (4) The Minister is to consider any submissions made by the licensee and is then to decide whether to make the proposed amendment, either with or without changes from that originally proposed.
- (5) The Minister is to notify the licensee of the Minister's decision. Any amendment that the Minister decides on takes effect when notice of the decision is given to the licensee or on such later date as may be specified in the notice.

Part 12 General provisions relating to CMS, links and investment licences

166 Definitions

In this Part:

licence means:

- (a) a CMS licence, or
- (b) a links licence, or
- (c) an investment licence.

licensee means the holder of a licence.

167 Applications for licences

- (1) An application for a licence must:
 - (a) be in the form approved by the Minister, and
 - (b) be accompanied by such information as the Minister requires, and
 - (c) be accompanied by the fee prescribed by the regulations.
- (2) An application for a licence may not be made by:
 - (a) a person who is under 18 years of age, or is within a class of persons prescribed by the regulations as being ineligible to apply for a licence, or
 - (b) a person who is disqualified from holding a gaming-related licence, or
 - (c) a person who is the holder of a suspended gaming-related licence.

168 Consideration and fees for CMS licence or links licences

- (1) The Minister may determine that an amount is payable as consideration for the grant of a CMS licence or links licence. Different amounts may be determined for different licences.
- (2) The Minister may determine a periodic licence fee for a CMS licence or links licence. Any such fee is payable in accordance with the regulations.

- (3) The Minister can accept payment of an amount of consideration payable under this section by payment in money or by the issue of shares.
- (4) A CMS licence or links licence for which an amount of consideration has been determined to be payable under this section is not to be granted until the amount has been paid or arrangements satisfactory to the Minister have been made for its payment.
- (5) The regulations may make provision for or with respect to any fee payable under this section and in particular may provide for any of the following:
 - (a) the periods in respect of which a fee is payable,
 - (b) times for payments of fees,
 - (c) payment by instalments,
 - (d) penalties for late payment,
 - (e) suspension or cancellation of a licence for failing to pay a fee,
 - (f) the circumstances in which a fee (or part of a fee) may be refunded.

169 Trade Practices exemption for exclusive licences

- (1) The following conduct is specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*:
 - (a) the grant of an exclusive licence under Part 9, 10 or 11,
 - (b) conduct authorised or required by or under the terms or conditions of any such exclusive licence.
- (2) Conduct authorised by subsection (1) is authorised only to the extent (if any) that it would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.

170 No proprietary right in licences

- (1) A licence confers no right of property and is incapable of being assigned or mortgaged, charged, leased or otherwise encumbered.

- (2) This section does not, in the case of an investment licence, prevent the licensee from conducting activities authorised by the licence in the course of a joint venture or other arrangement to which the licensee is a party.

171 Term of licences

A licence remains in force for the period for which it is granted, as specified in the licence, unless sooner cancelled or surrendered.

172 Disciplinary action against licensees

- (1) For the purposes of this Part:

disciplinary action means any one or more of the following actions in relation to a licence:

- (a) the cancellation or suspension of the licence,
- (b) the imposition on the licensee of a monetary penalty (not exceeding \$250,000),
- (c) the alteration of the conditions of the licence by the Minister,
- (d) the service of a letter of reprimand by the Minister on the licensee.

- (2) If a licensee:

- (a) contravenes a provision of this Act or the regulations, or
- (b) fails to comply with any requirement under this Act or the regulations that relates to the licensee, or
- (c) in the case of a CMS licensee—fails to comply with any requirement under the *Gaming Machine Tax Act 2001* that relates to the licensee, or
- (d) fails to comply with a condition of the licence, or
- (e) being a natural person:
 - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (ii) becomes an incapacitated person and incapable of carrying on the activities authorised by the licence in accordance with this Act, or

- (iii) is convicted of an offence involving fraud or dishonesty, or
 - (f) being a corporation:
 - (i) enters into or authorises a dealing with or in respect of shares of, or other instruments issued by, the corporation without the consent in writing of the Minister that, in the opinion of the Minister, affects the control of the corporation, or
 - (ii) becomes an externally administered corporation within the meaning of the *Corporations Act 2001* of the Commonwealth, or
 - (iii) fails to terminate promptly the employment of a person concerned in the management of the licensee who is convicted of an offence involving fraud or dishonesty,
- the Minister may serve on the licensee a notice in writing giving the licensee an opportunity to show cause within 14 days (or such longer period as the Minister may specify in the notice) why disciplinary action should not be taken against the licensee on the grounds specified in the notice.
- (3) The licensee may, within the period allowed by the notice, arrange with the Minister for the making of submissions to the Minister as to why disciplinary action should not be taken and the Minister is to consider any submissions so made.
 - (4) The Minister may then decide that it is appropriate that certain disciplinary action be taken against the licensee and may either:
 - (a) take that disciplinary action, or
 - (b) as an alternative to taking that disciplinary action, take action under section 173.
 - (5) To the extent that this section authorises disciplinary action to be taken in relation to an offence committed by the licensee or another person, such action may be taken against the licensee whether or not the licensee or person has been prosecuted, convicted or penalised for the offence.
 - (6) Disciplinary action takes effect when notice of it is given in writing or on a later date specified in the notice.

- (7) The fact that disciplinary action is taken by the Minister under this section does not prevent the Minister from taking the same or other disciplinary action under this section if the contravention continues or a fresh contravention occurs.
- (8) A monetary penalty imposed under this section may be recovered as a debt due to the Crown in a court of competent jurisdiction.

173 Rectification order as alternative to disciplinary action

- (1) As an alternative to taking disciplinary action against a licensee, the Minister may direct the licensee in writing to take specified action within a specified time to rectify the matter that constitutes the basis for taking disciplinary action.
- (2) If a licensee fails to take the specified action within the specified time, the Minister may proceed to take disciplinary action in accordance with section 172.

174 Temporary suspension of licences

- (1) The Minister may take action under this section, without prior notice to a licensee, in order to secure compliance by a licensee with a direction given to the licensee in accordance with the regulations.
- (2) If the Minister considers it necessary or expedient for the purposes of this section, the Minister may, by notice, suspend a licence:
 - (a) until a date specified in the notice of suspension, or
 - (b) if the notice so specifies—until the Minister, being satisfied that the relevant direction has been complied with, further notifies the licensee.

175 Surrender of licences

- (1) A licensee may surrender a licence by giving notice in writing to the Minister. If the licence is held by more than one person, each licensee is to surrender the licence.
- (2) The surrender takes effect only if the Minister consents to the surrender.

176 Appointment of temporary licensee if CMS licence or links licence suspended, cancelled or surrendered

- (1) If a CMS licence or links licence is suspended, cancelled or surrendered (*the former licence*), the Minister may, if the Minister is satisfied that it is in the public interest to do so, by instrument in writing appoint a person to be a licensee (*the appointed licensee*) for the purposes of this section.
- (2) In appointing a person to be the appointed licensee, the Minister must have regard to the suitability of the person.
- (3) The appointed licensee is to be appointed on such terms and conditions as the Minister thinks fit.
- (4) The appointment of the appointed licensee may be terminated at any time by the Minister and is in any case terminated:
 - (a) 90 days after appointment unless in a particular case the appointment is extended by the regulations, or
 - (b) by the granting of:
 - (i) in the case where the former licence authorised the operation of a CMS—another CMS licence, or
 - (ii) in the case where the former licence authorised an inter-hotel linked gaming system—another links licence to operate an inter-hotel linked gaming system, or
 - (iii) in the case where the former licence authorised an inter-club linked gaming system—another links licence to operate an inter-club linked gaming system.
- (5) The appointed licensee:
 - (a) is to be considered to be the holder of a licence granted on the same terms and subject to the same conditions as the former licence (as in force immediately before its suspension, cancellation or surrender) with such modifications as the Minister may direct, and
 - (b) is to assume full control of and responsibility for the business of the former licensee in respect of:
 - (i) the CMS operated under the former licence, or
 - (ii) the linked gaming system operated under the former licence, and
 - (c) is to operate or cause to be operated a CMS or linked gaming system in accordance with this Act, and

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- (d) has, in connection with the operation of a CMS or linked gaming system, all the functions of the former licensee.
- (6) Subject to this section, an appointed licensee under this section may enter into such arrangements as are approved by the Minister with the former licensee, including arrangements relating to the use of assets and services of staff of the former licensee.
- (7) The former licensee must:
- (a) make available to the appointed licensee on reasonable terms such assets of, or under the control of, the former licensee as are reasonably necessary for arrangements under subsection (6), and
 - (b) use the former licensee's best endeavours to make available such staff of the former licensee as are reasonably necessary for those arrangements.

Maximum penalty: 100 penalty units.

- (8) The regulations may make provision for or with respect to the functions of an appointed licensee.
- (9) The following provisions have effect in respect of the net earnings of a CMS or linked gaming system while operated by an appointed licensee under this section:
- (a) no payment of net earnings (including any fees or charges) is to be made to the former licensee without the prior approval of the Minister,
 - (b) the former licensee is entitled to a fair rate of return out of net earnings (if any) on any property of the former licensee retained by the appointed licensee (subject to any arrangements made under subsection (6)),
 - (c) the Minister may direct that all or any part of net earnings (other than that to which the former licensee is entitled under paragraph (b)) is to be paid into the Consolidated Fund, with any balance to be paid to the former licensee.

177 Directions to licensees and other relevant persons

- (1) The regulations may provide for the Minister:
- (a) to give directions to a CMS licensee, hotelier or registered club, or to any person concerned in the management or supervision of a CMS:

- (i) regarding any matter that relates to the operation of a CMS, and
 - (ii) regarding any agreement or arrangement that relates to a CMS, and
 - (iii) requiring the CMS licensee, hotelier, registered club or other person to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations, and
 - (b) to give directions to the holder of a licence, or to a participating hotelier or participating club, or to any person concerned in the management or supervision of a linked gaming system:
 - (i) regarding any matter that relates to the operation of a linked gaming system, and
 - (ii) regarding any agreement or arrangement that relates to a linked gaming system, and
 - (iii) requiring the licensee, hotelier, club or other person to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations, and
 - (c) to give directions to a hotelier or other person who is party to any business arrangement with, or otherwise concerned in the activities carried on under an investment licence:
 - (i) regarding any matter that relates to an activity carried on under the authority of the investment licence, and
 - (ii) regarding any agreement or arrangement that relates to any such activity, and
 - (iii) requiring the hotelier or other person to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations.
- (2) The regulations may make provision for or with respect to the enforcement of such directions.

Part 13 Investigation and enforcement powers

178 Interpretation

- (1) A reference in this Part to an approved gaming machine includes a reference:
 - (a) to any device that is in the nature of an approved gaming machine, or
 - (b) to any part of an approved gaming machine or of any such device.
- (2) In this Part:
licensee means the holder of a gaming-related licence.

179 Identification of special inspectors

- (1) The Minister administering section 109 of the *Liquor Act 1982* is to cause each special inspector to be issued with a means of identification that is approved by the Minister and includes the following information:
 - (a) that the identification is issued under this Act by the Minister administering the *Liquor Act 1982*,
 - (b) the name of the special inspector,
 - (c) that the special inspector is authorised to exercise the powers conferred on a special inspector by this Act.
- (2) In the course of exercising the functions of a special inspector under this Act, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification to the person unless to do so would defeat the purpose for which the functions are to be exercised.

180 General powers of entry, inspection and seizure

- (1) This section applies to the following premises:
 - (a) a hotel,
 - (b) a registered club,
 - (c) the premises on which a licensee or the holder of a work permit carries on business, or on which the licensee or permit holder is employed.

- (2) If the Commissioner of Police or a special inspector believes on reasonable grounds that a contravention of this Act has been, or is being, committed on premises to which this section applies, the Commissioner or inspector may, at any time of the day or night, enter the premises with or without a police officer.
- (3) In exercising the power conferred by subsection (2), a police officer may break into the premises if entry is refused or is unreasonably delayed (whether or not by the absence of a person able to permit entry to the premises).
- (4) A police officer, the Director or a special inspector may, at any reasonable time, enter and examine any premises to which this section applies and may:
 - (a) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been, and are being, complied with, and
 - (b) having required the production of any registers, books, records or other documents relating to the business carried on at the premises concerned—inspect, make copies of or take extracts from, entries in the registers, books, records or other documents, and
 - (c) examine any approved gaming machine and take readings from the gaming machine.
- (5) In the exercise of a power conferred under this section, the Commissioner of Police, a police officer or a special inspector may:
 - (a) if the Commissioner, police officer or special inspector considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence—seize any registers, books, records or other documents relating to the business conducted on the premises, and
 - (b) require any person to answer any question relating to any such registers, books, records or other documents or any other relevant matter.
- (6) A person who wilfully delays or obstructs a police officer, the Director or a special inspector in the exercise of powers under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

- (7) If any premises are entered under this section, a person is guilty of an offence if the person refuses to permit or to assist the exercise of the powers conferred by this section on the police officer, Director or special inspector in the exercise of his or her powers.

Maximum penalty: 50 penalty units.

181 Dealing with seized documents

- (1) If the Commissioner of Police or a police officer or special inspector seizes any document under section 180 on premises to which that section applies, the Commissioner, police officer or special inspector is required to issue the person apparently in charge of the premises with a written receipt for the document.
- (2) The Commissioner of Police, police officer or special inspector may retain any such seized document until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.
- (3) A document may only be retained under subsection (2) if the person from whom the document was seized is provided, within a reasonable time after the seizure, with a copy of the document certified by the Commissioner of Police, police officer or special inspector as a true copy.
- (4) The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.

182 Hoteliers and clubs must comply with requirements of special inspector

- (1) A special inspector may require a hotelier or registered club to do any of the following:
- (a) to withdraw from operation an approved gaming machine that, in the opinion of the inspector, is not operating properly,
 - (b) to refrain from making available for operation an approved gaming machine withdrawn from operation under paragraph (a) until, in the opinion of the inspector or another special inspector, it is operating properly,
 - (c) to refrain from making an approved gaming machine available for operation except in accordance with controls specified by the inspector in relation to the gaming machine,

- (d) to deliver to the Board, in writing in the English language and within a time specified by the inspector, such particulars relating to an approved gaming machine in the hotel or club as are so specified,
 - (e) to refrain from making available for operation an approved gaming machine indicated by the inspector until it has been fitted with a device approved by the Board for the purposes of the secure keeping and operation of the gaming machine.
- (2) A hotelier or registered club must comply with any such requirement given to the hotelier or club.
- Maximum penalty: 50 penalty units.

183 Powers of entry and inspection—gaming machines

- (1) In this section:
- authorised person* means a special inspector, the Commissioner of Police or a person prescribed by the regulations as an authorised person for the purposes of this section.
- (2) This section applies to the following premises:
- (a) a hotel,
 - (b) a registered club,
 - (c) the premises on which a licensee or the holder of a work permit carries on business, or on which the licensee or permit holder is employed.
- (3) An authorised person may enter any part of premises to which this section applies and exercise the powers conferred by this section, but may do so only:
- (a) at a reasonable hour of the day or night, unless it is being exercised in an emergency, and
 - (b) after giving reasonable notice, unless the giving of notice would defeat the purpose for which the powers are to be exercised, and
 - (c) by using no more force than is reasonably necessary.
- (4) The authorised person may do any of the following:
- (a) inspect, count, check and test, and make notes relating to, approved gaming machines,

- (b) require a person having access to records relating to relevant matters to produce the records for examination,
 - (c) make copies of, and take extracts from, records relating to relevant matters,
 - (d) affix a temporary seal to any part of an approved gaming machine,
 - (e) for the purpose of further examination, take possession of, and remove, a record relating to relevant matters.
- (5) The authorised person may ask any of the following persons to answer questions relating to relevant matters:
- (a) a hotelier or manager of a hotel,
 - (b) the secretary of a registered club or any other member of the governing body of a club,
 - (c) a holder of a gaming-related licence or, if a holder of a gaming-related licence is a corporation, a director of the corporation,
 - (d) an employee of a hotelier, registered club or holder of a gaming-related licence,
 - (e) the person who appears to be in charge of the premises entered.
- (6) The authorised person may take possession of, and remove, an approved gaming machine that is on the premises entered (including any money in the gaming machine):
- (a) for the purposes of further examination, or
 - (b) if the authorised person believes on reasonable grounds that the gaming machine is in the possession of a person who, by being in possession of the gaming machine or part, is guilty of an offence,

but may do so only if the authorised person issues the person apparently in charge of the premises with a written receipt for the gaming machine and for any money in it.

- (7) If damage is caused by the exercise of the powers conferred by this section, the Minister is to pay reasonable compensation for the damage unless the exercise of the powers was obstructed by the occupier of the premises.

- (8) An approved gaming machine removed under this section, and any money in it, is to be returned if the Board so directs on the application of the owner made not earlier than 14 days after its removal, unless a summons has been issued under section 185.
- (9) If a person claims on reasonable grounds that a record removed under this section is necessary for the conduct of business on the premises from which the record was removed, the record is not to be retained beyond the end of the next succeeding day, unless the claimant is first provided with a copy of the record certified by an authorised person to be a true copy. A certified copy of a record provided under this section is for all purposes of equal validity to the original.
- (10) A Licensing Magistrate or other Magistrate, or the Principal Registrar, may, on the application of an authorised person, issue a summons requiring a person:
- (a) to produce to the Licensing Court records that the person summoned has failed to produce in accordance with a requirement made under this section, or
 - (b) to appear before the Licensing Court and give evidence in relation to a matter in respect of which the person summoned has failed to answer a question in accordance with such a requirement,
- and, on the return of the summons, the person summoned may be represented and be heard.
- (11) A person who, having been served with a summons under this section, fails to comply with the summons, is guilty of an offence.
Maximum penalty: 50 penalty units.
- (12) A person who, not being an authorised person, breaks a temporary seal that has been affixed to an approved gaming machine by an authorised person is guilty of an offence.
Maximum penalty: 100 penalty units.
- (13) In this section:
- relevant matter** means a matter relating to:
- (a) the manufacture, supply, sale, servicing, possession, keeping or operation of an approved gaming machine, or
 - (b) a transaction referred to in section 122.

184 Search warrants—gaming machines

- (1) A police officer may apply to an authorised justice for a search warrant if the police officer has reasonable grounds for believing that, on specified premises, a provision of this Act or the regulations, or a condition of a gaming-related licence, is being or has been contravened in relation to an approved gaming machine.
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant to any police officer to enter and search the premises.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.
- (4) A police officer who enters any premises on the authority of a search warrant issued under this section may search the premises and may:
 - (a) seize and carry away an approved gaming machine or any money in the gaming machine, or
 - (b) seize and carry away any books of account and documents that may reasonably be suspected to relate to approved gaming machines, or
 - (c) require any person on the premises to state his or her name and address.
- (5) This section does not authorise a police officer to carry away any thing for which the officer does not give a receipt.
- (6) In this section:
authorised justice has the same meaning as in the *Search Warrants Act 1985*.

185 Forfeiture or return of removed or seized gaming machines

- (1) This section applies to an approved gaming machine if it is removed under section 183 or is seized under section 184 in the execution of a search warrant.
- (2) A Licensing Magistrate or other Magistrate, the Principal Registrar, or an authorised justice under the *Search Warrants Act 1985*, may (whether or not on application by a police officer) issue a summons requiring:
 - (a) the owner of an approved gaming machine to which this section applies, or

- (b) the owner or occupier of the premises from which such a gaming machine was removed or on which it was seized, to appear before the Licensing Court and show where and for what purpose the person summoned came to be in possession of the gaming machine.
- (3) On the return of the summons and whether or not there is an appearance in response to the summons, the Licensing Court is to inquire into the matter and:
 - (a) order the forfeiture to the Crown of the approved gaming machine, and of any money found in the gaming machine, if satisfied that a provision of this Act or the regulations was being contravened in relation to the gaming machine on the premises from which it was removed or on which it was seized, or
 - (b) if not so satisfied, order the return to the person summoned of the approved gaming machine and any money found in the gaming machine.

186 Other forfeitures of gaming machines

- (1) If, in proceedings of any kind before it, the Licensing Court or any other Court finds that this Act or the regulations, or a condition of a gaming-related licence, has been contravened in relation to an approved gaming machine, the Court may order the forfeiture to the Crown of the gaming machine and any money found in it.
- (2) A police officer may seize and carry away anything that the police officer reasonably suspects may be liable to forfeiture under this section or which a Court has ordered to be forfeited to the Crown, including any money in an approved gaming machine at the time of its seizure.

Part 14 Legal proceedings and related matters

Division 1 Appeals and reviews

187 Appeal to Supreme Court on question of law

- (1) A person who is aggrieved by a decision of the Licensing Court in proceedings under this Act may appeal to the Supreme Court on a question of law.
- (2) On the determination of an appeal under subsection (1), the Supreme Court is:
 - (a) to remit the matter to the Licensing Court with the decision of the Supreme Court, or
 - (b) to make such other order in relation to the appeal as it thinks fit.
- (3) An appeal under subsection (1) is to be made in accordance with rules of court of the Supreme Court.
- (4) If a matter is remitted to the Licensing Court under subsection (2) (a), the Chairperson of the Licensing Court may replace with another Magistrate referred to in section 9 or 10 of the *Liquor Act 1982* the Magistrate so referred to who constituted, or a Magistrate so referred to who was a member of, the Court to whose adjudication the matter remitted relates if:
 - (a) the Magistrate being replaced has ceased to hold office as a Magistrate, or
 - (b) the Magistrate being replaced is absent, ill or otherwise unavailable for duty.
- (5) A Magistrate who replaces another Magistrate for the purpose of determining a matter remitted to the Licensing Court under subsection (2) (a) may do any act or thing in connection with the remitted matter that could have been done by the replaced Magistrate if the replaced Magistrate had constituted, or been a member of, the Court determining the remitted matter and, for that purpose:
 - (a) may read as evidence for any party the depositions of all witnesses in the proceedings, and
 - (b) may decide, or join in deciding, to grant leave for further evidence to be called by a party to the proceedings.

188 Appeal to District Court from conviction

Division 4 of Part 5 of the *Justices Act 1902* (or, if that Division is replaced by the provisions of another Act, those replacement provisions) apply to and in respect of a decision of the Licensing Court exercising jurisdiction under section 197 in the same way as it applies to and in respect of a conviction or order of a Local Court.

189 Appeal to Licensing Court

- (1) Except where an appeal lies by reason of section 187 or 188, a person who is aggrieved by a decision of the Licensing Court constituted by less than 3 Magistrates in proceedings under this Act may appeal against the decision, in accordance with the regulations, to the Licensing Court constituted as provided by section 10 of the *Liquor Act 1982*.
- (2) An appeal under subsection (1) is an appeal by way of rehearing and the decision on such an appeal is, subject to section 187, final and conclusive and not subject to appeal.
- (3) The lodging of an appeal under this section operates to stay the decision appealed against, except in the case of a decision to uphold a complaint on the ground set out in section 129 (3) (g) (iv), (h) or (i) or (5) (a).

190 Review of disqualification

- (1) A person may apply to the Licensing Court for a review of a disqualification imposed under section 131 or 198 if the disqualification has effect for a period of more than 3 years.
- (2) The application may be made only after:
 - (a) any minimum period set by the Licensing Court during which the application may not be made has expired, or
 - (b) if no minimum period has been set, the disqualification has been in force for 3 years.
- (3) On application being made for the review of a disqualification, the Licensing Court may:
 - (a) remove the disqualification, or
 - (b) shorten the period of disqualification, or

- (c) confirm the disqualification and set a minimum period during which a further application for review under this section may not be made.
- (4) This section does not affect any right of appeal that a person might have under section 189 against the original decision to disqualify the person.

Division 2 General provisions

191 Licensing Court to state reasons for refusal

If an application made under this Act is refused by the Licensing Court, the Licensing Court must state its reasons for the refusal.

192 Discretionary powers of Licensing Court

Despite any other provision of this Act, on the hearing of an application made under this Act, the Licensing Court may at the request of the applicant or of any objector to the application and on such terms as to costs or adjournment as it thinks fit:

- (a) permit the lodgment or amendment of any notice or other instrument necessary to the proceedings before the Court, or
- (b) disregard any omission, error, defect or insufficiency in any such notice or other instrument or any failure, defect or insufficiency in respect of the giving, serving, fixing, keeping affixed, advertising, exhibition or publishing of any such notice or other instrument if the Licensing Court is satisfied that injustice to any person will not be occasioned.

193 Costs and expenses

(1) The Licensing Court:

- (a) in determining an application made under this Act to which an objection may be taken, may order that:
 - (i) the applicant pay to any objector the objector's reasonable costs and expenses in making the objection, or

- (ii) any objector or any person who the Licensing Court is satisfied is directly or indirectly interested in the taking of any objection pay to the applicant the applicant's reasonable costs and expenses in answering the objection, or
- (b) in determining a complaint under Part 8 may order that:
 - (i) the hotelier or registered club against which the complaint is made pay to the complainant the complainant's reasonable costs and expenses in making the complaint, or
 - (ii) the complainant pay to the hotelier or registered club the hotelier's or registered club's reasonable costs and expenses in answering the complaint,within such time as may be specified in the order.
- (2) Except in such circumstances as may be prescribed by the regulations, an order cannot be made under subsection (1) for the payment of any amount by an objector or complainant if the Licensing Court is satisfied that:
 - (a) the objection or complaint is based exclusively on considerations of public interest and is not malicious, frivolous or vexatious, and
 - (b) the objector or complainant has no direct or indirect pecuniary interest in the refusal of the application or any expectation of such an interest or in the upholding of the complaint.
- (3) Any amount ordered to be paid under subsection (1) may be recovered as a debt in any court of competent jurisdiction.
- (4) So long as any amount ordered to be paid by a hotelier or registered club under subsection (1) remains unpaid after the time ordered for the payment of the amount, the hotelier's licence or certificate of registration of the club, as the case may be, is taken to be not in force.

194 Evidentiary provisions

- (1) In any legal proceedings under this Act, any one or more of the following allegations is taken to be proved unless the contrary is proved:
 - (a) that a specified poker machine is or is not an approved poker machine,

- (b) that a specified device is or is not an approved amusement device,
 - (c) that a specified hotelier, or a specified registered club, is or is not authorised to keep an approved gaming machine or a specified number of approved gaming machines,
 - (d) that a specified person is or is not the holder of a gaming-related licence or a specified kind of gaming-related licence,
 - (e) that a specified gaming-related licence has been suspended,
 - (f) that a specified person is a special inspector,
 - (g) that a specified person is the Director,
 - (h) that a club is or is not a registered club,
 - (i) that a specified person is the secretary of a registered club,
 - (j) that a specified person is the a delegate of an office holder within the meaning of section 208.
- (2) In any proceedings under this Act, an allegation in an information that, at a specified time, a person was under the age of 18 years is evidence of the truth of the allegation unless the defendant denies the allegation:
- (a) at any adjournment before the commencement of the hearing of the information—by informing the Licensing Court, the informant or person appearing for the informant in writing of the denial, or
 - (b) at any time not later than 14 days before the hearing of the information—by informing the informant or a person appearing for the informant in writing of the denial.

195 Evidence by affidavit

- (1) Subject to subsection (2) and except to the extent (if any) that the Licensing Court otherwise directs, evidence in any proceedings before the Licensing Court under this Act (other than proceedings for an offence) is to be given by affidavit.
- (2) Except to the extent (if any) that the parties otherwise agree or the Licensing Court otherwise directs, an affidavit may not, in the absence of the deponent, be admitted in evidence under subsection (1).
- (3) If proceedings for or in respect of an offence under this Act are taken before the Licensing Court, a witness present in the Court at the

hearing of the proceedings is, unless the Court otherwise directs in a particular case or class of cases, to give evidence by means of a written statement a copy of which has been given both to the Court and the parties and which, at the hearing, is verified orally on oath by the witness.

- (4) A witness who, in accordance with this section, gives evidence by affidavit or written statement may be cross-examined and re-examined as if the witness had given oral evidence on oath of the matter of the statement.

196 Prosecution of unincorporated clubs

- (1) An information for an offence under this Act or the regulations of which a registered club that is not a body corporate is alleged to be guilty may be laid against the club in the name of the club.
- (2) Any such information may, subject to subsection (3), be prosecuted and dealt with in all respects as if the club were a body corporate.
- (3) Any penalty imposed on or other amount ordered to be paid by such a club on conviction for such an offence may be recovered from the trustees or other governing body of the club as a debt in any court of competent jurisdiction.
- (4) The trustees or other governing body of such a club are indemnified for the payment of any such penalty or other amount from the property of the club.

197 Proceedings for offences

- (1) Proceedings for an offence under this Act or the regulations may be taken within 12 months after the act or omission on which they are based and may be so taken:
 - (a) before the Licensing Court, or
 - (b) before a Local Court.
- (2) Proceedings taken before the Licensing Court are, for the purposes of any Act relating to summary proceedings before a Local Court, taken to be summary proceedings before a Local Court.

198 Additional penalties

- (1) In addition to any penalty that the Licensing Court may impose on a hotelier, registered club or holder of gaming-related licence (*the*

licensee) for an offence under this Act or the regulations, the Court may, if it thinks it appropriate, do any one or more of the following:

- (a) cancel the hotelier's licence, the certificate of registration of the club or the gaming-related licence,
 - (b) impose a condition to which the hotelier's licence, certificate of registration or gaming-related licence is to be subject or revoke or vary a condition to which the hotelier's licence, certificate of registration or gaming-related licence is subject,
 - (c) suspend the hotelier's licence or gaming-related licence for such period, not exceeding 12 months, as the Court thinks fit,
 - (d) disqualify the licensee from holding a gaming-related licence for such period as the Court thinks fit,
 - (e) reprimand the hotelier or licensee.
- (2) In addition to, or as an alternative to, any penalty that the Licensing Court may impose on a hotelier or registered club:
- (a) in any proceedings in relation to a complaint under Part 8, or
 - (b) in any proceedings in which it finds the hotelier or club guilty of an offence under this Act or the regulations,

the Court may suspend or cancel the hotelier's or club's authorisation under Part 5 to keep approved gaming machines.

199 Remedial orders

- (1) The Licensing Court may, in addition to or as an alternative to any penalty that it imposes in any proceedings in relation to a complaint under Part 8 or in which it finds any person guilty of an offence under this Act or the regulations, being an offence that is prescribed by the regulations for the purposes of this section, make an order requiring:
- (a) the hotelier concerned, or the manager of the hotel or any other person involved in the conduct of gambling activities in the hotel concerned, or
 - (b) the secretary of the registered club concerned, or a director or employee of the club,

to undertake any specified course of training that the Court considers will promote responsible practices in relation to the keeping and operation of approved gaming machines in the hotel or club.

- (2) A person who, without lawful excuse, fails to comply with an order under this section is guilty of an offence.

Maximum penalty: 20 penalty units.

200 Offences by corporate hoteliers

- (1) If a hotelier that is a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who occupies a position of authority in the corporation is taken to have contravened the provision if the person knowingly authorised or permitted the contravention.
- (2) If a hotelier that is a corporation is taken to have contravened (whether by act or omission) a provision of this Act or the regulations by reason of a contravention by the manager of the hotel, each person who occupies a position of authority in the corporation is taken to have contravened the provision unless the person establishes that the person:
- (a) was not knowingly a party to any authorisation by the corporation of the contravention by the manager, and
 - (b) took all reasonable steps (within the scope of his or her authority) to ensure that the corporation maintained control over and supervision of the activities of the manager in an effort to prevent any such contravention by the manager occurring.
- (3) A person may be proceeded against and convicted under a provision in accordance with this section whether or not the corporation or manager of the hotel has been proceeded against or convicted.
- (4) This section does not affect any liability imposed on a corporation or the manager of a hotel for an offence committed by the corporation or manager under this Act or the regulations.

201 Liability of secretary of club and members of governing body

- (1) If a registered club contravenes a provision of this Act or the regulations, the secretary and members of the governing body of the club are, whether or not the club is convicted for the contravention, each taken to have contravened the provision unless it is proved that:
- (a) the contravention occurred without the knowledge of the person charged, or
 - (b) the person charged was not in a position to influence the affairs of the club in relation to the contravention, or

- (c) the person charged, being in such position, used all due diligence to prevent the contravention.
- (2) Nothing in this section affects any liability imposed on a club for a contravention of a provision of this Act or the regulations.

202 Liability of management and directors of corporate holder of a gaming-related licence

- (1) If the a holder of a gaming-related licence that is a corporation contravenes a provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is, whether or not the corporation has been convicted for the contravention, taken to have contravened the provision unless the person satisfies the Court that:
 - (a) the corporation contravened the provision without the knowledge of the person, or
 - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
 - (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) This section does not affect any liability imposed on a corporation for a contravention of this Act or the regulations.

203 Penalty notices

- (1) An authorised officer may serve a penalty notice on a person (including a hotelier or registered club) if it appears to the officer that the person has committed an offence under this Act or the regulations and the offence is one that is stated by the regulations to be an offence to which this section applies.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence, except proceedings under Part 8.

- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) However, when a penalty is paid under this section in respect of a penalty notice served on a person, the person is for the purposes of Part 8 taken to have been convicted of the offence to which the penalty notice related.
- (7) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (8) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (9) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (10) In this section:

authorised officer means a police officer, the Director or a special inspector.

Part 15 Miscellaneous provisions

204 Crown not liable for any compensation

- (1) Damages or compensation are not payable by or on behalf of the Crown because of:
 - (a) the enactment or operation of this Act, or for the consequences of that enactment or operation, or
 - (b) a representation or conduct of any kind about any restrictions or limitations on the keeping and operation of approved gaming machines in hotels and registered clubs.
- (2) In subsection (1), *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes the Board or any officer, employee or agent of the Crown or the Board.

205 Directions by Minister and additional functions of Board

- (1) The Minister may, after consultation with the Board, give directions and furnish guidelines to the Board as to how the Board is to exercise its functions in relation to the following:
 - (a) approving the keeping of hardship gaming machines under Division 3 of Part 3,
 - (b) approving social impact assessments under Division 1 of Part 4,
 - (c) approving technical standards under section 62,
 - (d) declaring devices as approved gaming machines under Division 2 of Part 5.
- (2) Any such direction or guideline may be given or furnished only if the Minister is of the opinion that the direction or guideline:
 - (a) is necessary or desirable to protect the integrity of gaming in hotels and registered clubs, or
 - (b) is otherwise in the public interest.
- (3) A direction is not to be given under this section in relation to a particular application or matter being determined by the Board.
- (4) In exercising any of its functions as referred to in subsection (1), the Board is subject to the directions and guidelines given or furnished by the Minister under this section.
- (5) Directions and guidelines under this section must be in writing.

- (6) In addition to the functions conferred on it by this Act, the Board:
- (a) is to keep under constant review the operation of this Act and make such recommendations to the Minister in relation to the operation of this Act as it thinks fit, and
 - (b) is, if directed by the Minister so to do, to inquire into, and make a report and recommendations to the Minister on, any matter connected with the administration of this Act (including the keeping and operation of approved gaming machines in hotels and registered clubs), and
 - (c) may receive submissions or reports from any person with respect to the operation of this Act (including the manufacture, assembly, supply, sale, acquisition, servicing, disposal, keeping or operation of approved gaming machines).

206 Secrecy

- (1) A person who:
- (a) acquires information in the exercise of a function of an office held by the person in the course of administering this Act, and
 - (b) directly or indirectly makes a record of the information or discloses it to another person,

is guilty of an offence under this Act unless the information is recorded or disclosed in the exercise of the functions of the office or in the course of administering this Act as a holder of that or any other office.

Maximum penalty: 50 penalty units.

- (2) Despite subsection (1), information may be disclosed:
- (a) to a particular person or persons, if the Board certifies that it is necessary in the public interest that the information be disclosed to the person or persons, or
 - (b) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
 - (c) to a person or authority prescribed by the regulations, or
 - (d) to the Minister, or to a person who is engaged in the administration of this Act and is authorised in writing by the Minister to receive information under this section.

- (3) It is not an offence under this section if, in legal proceedings, a person:
- (a) discloses information in answer to a question that the person is compellable to answer, or
 - (b) produces a document or other thing that the person is compellable to produce.
- (4) An authority or person to which or to whom information is disclosed under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as the authority or person would be if that authority, person or employee were a person administering this Act and had acquired the information in the course of administering this Act.
- (5) This section does not apply to the disclosing of information to, or to the production of any document or other thing to, any of the following:
- (a) the Independent Commission Against Corruption,
 - (b) the National Crime Authority,
 - (c) the New South Wales Crime Commission,
 - (d) the Ombudsman,
 - (e) any other person or body prescribed by the regulations for the purposes of this section.
- (6) This section does not prevent a person being given access to a document in accordance with the *Freedom of Information Act 1989*.
- (7) In this section, a reference to the production of a document or other thing includes a reference to provision of access to the document or other thing.

207 Protection from personal liability

Anything done or omitted to be done by a person who is:

- (a) a member of the Board, or
- (b) a special inspector or a member of the Police Service, or
- (c) an officer or temporary employee appointed or employed under the *Public Sector Management Act 1988*, or
- (d) an employee of the CMS licensee,

in exercising the functions conferred or imposed on the person by or under this Act or in the course of the administration of this Act does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

208 Delegations

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

209 Relationship with Environmental Planning and Assessment Act 1979

- (1) An environmental planning instrument (whether made before or after the commencement of this section) under the *Environmental Planning and Assessment Act 1979* cannot prohibit or require development consent for, or otherwise regulate or restrict, the installation, keeping or operation of approved gaming machines in hotels, registered clubs or any other premises.
- (2) If an environmental planning instrument contains any provision in contravention of subsection (1), the provision is taken to have no effect.
- (3) A consent authority (within the meaning of the *Environmental Planning and Assessment Act 1979*) cannot:
 - (a) as a condition of any development consent under that Act, prohibit or otherwise regulate or restrict the installation, keeping or operation of approved gaming machines in a hotel, registered club or any other premises, or
 - (b) refuse to grant any such development consent to a hotel or registered club for any reason that relates to the installation, keeping or operation of approved gaming machines in a hotel or registered club.

- (4) The installation, keeping or operation of an approved gaming machine in a hotel or registered club is not an activity for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979*.
- (5) Any approval or authorisation under this Act to keep an approved gaming machine in a hotel or registered club is not an approval for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979*.

210 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following:
 - (a) the manufacture and assembly of, and the design and construction of, approved gaming machines,
 - (b) the supply, offering to supply, sale, acquisition, ownership, possession, keeping, use, operation, transport, control, management, servicing, repair, maintenance and disposal of approved gaming machines,
 - (c) the means of identification, and the appearance, of approved gaming machines,
 - (d) the terms and conditions of acquisition, ownership and disposal of approved gaming machines,
 - (e) the types of approved gaming machines which may, or may not, be kept in hotels and registered clubs,
 - (f) the installation and location of approved gaming machines in hotels and registered clubs,
 - (g) the offering and provision of prizes and bonuses relating to the use of approved gaming machines and the calculation and determination of the prizes and bonuses,
 - (h) the keeping of records in relation to the keeping of approved gaming machines, the form in which the records are to be kept, the transfer of the records, the inspection of the records and the obtaining of copies of the records,

- (i) the furnishing of returns, including periodic returns, in relation to approved gaming machines,
 - (j) tampering or interfering with approved gaming machines,
 - (k) the examination and inspection of approved gaming machines,
 - (l) the sealing of an approved gaming machine to prevent it from being operated without breaking the seal,
 - (m) the withdrawal of an approved gaming machine from operation until a defect in the gaming machine is rectified,
 - (n) the removal of approved gaming machines from hotels and registered clubs and the disposal of approved gaming machines by sale or otherwise,
 - (o) the rebuilding or reconstruction of approved gaming machines and the distribution of used or second-hand approved gaming machines,
 - (p) information to be provided on or in relation to approved gaming machines and the display of signs on or in relation to approved gaming machines,
 - (q) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of approved gaming machines,
 - (r) intra-hotel and intra-club linked progressive gaming systems,
 - (s) the keeping and operation of electronic payment gaming machines in hotels and registered clubs,
 - (t) the signs to be displayed in registered clubs in relation to gaming machine areas,
 - (u) any other matter that relates to the keeping or operation of approved gaming machines in hotels and registered clubs,
 - (v) any matter relating to the operation of an authorised CMS,
 - (w) any matter relating to CMS licences, links licences and investment licences,
 - (x) any matter relating to proceedings in or before the Licensing Court under this Act.
- (3) The regulations may create offences punishable by a penalty not exceeding 100 penalty units.
- (4) The regulations may exempt specified persons or classes of persons from any provision of this Act or the regulations.

- (5) A regulation may apply, adopt or incorporate any publication as in force from time to time.

211 Savings, transitional and other provisions

Schedule 1 has effect.

212 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 2.

213 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedule 3.

214 Amendment of Casino Control Act 1992 No 15

The *Casino Control Act 1992* is amended as set out in Schedule 4.

215 Amendment of other Acts

Each Act specified in Schedule 5 is amended as set out in that Schedule.

216 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

(Section 211)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Preservation of existing gaming machine approvals and authorisations

- (1) In this clause:
existing gaming machine approval or authorisation means any approval or authorisation in respect of a poker machine or approved amusement device:
 - (a) granted under a provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* repealed by this Act, and
 - (b) in force immediately before the repeal of the provision.

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- (2) An existing gaming machine approval or authorisation is, subject to this Act and the regulations, taken to be an approval or authorisation in force under this Act.
 - (3) The conditions to which an existing gaming machine approval or authorisation is subject are, subject to the regulations, taken to be conditions imposed by or under this Act and may be revoked or varied in accordance with this Act.

3 Saving of existing gaming-related licences and work permits

- (1) In this clause:
existing gaming-related licence means a gaming-related licence:
 - (a) granted under a provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* before the repeal of the provision by this Act, and
 - (b) in force immediately before the repeal of the provision.
- (2) An existing gaming-related licence is, subject to the regulations, taken to be a gaming-related licence of the corresponding kind (as determined by the Board) in force under this Act.
- (3) A work permit issued under section 178 of the *Liquor Act 1982* or section 90A of the *Registered Clubs Act 1976* and in force immediately before the commencement of this clause is, subject to the regulations, taken to be a work permit of the corresponding kind (as determined by the Board) in force under this Act.
- (4) Subject to the regulations, any application made under the *Liquor Act 1982* or the *Registered Clubs Act 1976* for a gaming-related licence before the commencement of this clause is, if the application was not finally determined before that commencement, taken to have been made under this Act and may be dealt with in accordance with this Act.

4 Saving of existing TAB exclusive licences

- (1) A licence in force under Division 4 of Part 11 of the *Liquor Act 1982* and in force immediately before the repeal of that Division by this Act is taken to be a CMS licence in force under this Act.
- (2) A licence in force under Part 12 of the *Liquor Act 1982* and in force immediately before the repeal of that Part by this Act is taken to be a links licence in force under this Act.

- (3) An investment licence in force under Part 13 of the *Liquor Act 1982* and in force immediately before the repeal of that Part by this Act is taken to be an investment licence in force under this Act.

5 Saving of Liquor Act poker machine permits

- (1) The repeal of section 182C of the *Liquor Act 1982* by this Act does not affect the operation of a Liquor Act poker machine permit and such a permit may be transferred, or otherwise dealt with, in accordance with the arrangements approved under that section as if it has not been repealed.
- (2) A Liquor Act poker machine permit may continue to be held in relation to an approved poker machine even though the number of approved poker machines kept by the hotelier concerned falls below 15.

6 Replacement gaming machines in registered clubs affected by existing club freeze

- (1) This clause applies in relation to a registered club if:
- (a) the club, immediately before 28 March 2000, applied under the *Registered Clubs Act 1976* to the Board for authorisation under that Act to replace a poker machine with another poker machine (*the replacement machine*), and
 - (b) the application to keep the replacement machine was not granted by 28 March 2000 and, because of the enactment of Part 10B of the *Registered Clubs Act 1976* (*the club freeze*), was not able to be granted after that date.
- (2) The Board may, if satisfied that the effect of the club freeze prevented the processing of any such application for a replacement machine, authorise the registered club to keep the replacement machine provided the authorisation to keep the machine it replaces is cancelled.
- (3) This clause has effect despite any other provision of this Act.

7 Revocation of certain “hardship” grants in relation to clubs

- (1) In this clause:
- relevant hardship application* means an application to keep additional gaming machines in a registered club, being an application under the *Registered Clubs Act 1976* that:

-
- (a) was made before 26 July 2001, and
 - (b) was dealt with in accordance with section 88AF of that Act (as in force before its repeal by this Act).
- (2) If a relevant hardship application was initially refused by the Board before 26 July 2001 but was subsequently granted by the Board after that date, the granting of the relevant hardship application is, by the operation of this clause, revoked and is taken to have had no effect unless the Director-General determines, by notice in writing to the Board and the registered club concerned, that the granting of the relevant hardship application continues to have effect.

8 Protection of existing contractual arrangements (hotel lessees)

- (1) In this clause:

hotel owner means a person who owns the business conducted under the authority of the hotelier's licence concerned.

lessee means a person who exercises the authority conferred by a hotelier's licence under a lease, as in force at the commencement of this clause, with the hotel owner.

- (2) If:

- (a) poker machine entitlements are allocated in respect of a hotelier's licence, and
- (b) a lessee is exercising the authority conferred by the licence,

the poker machine entitlements are, for the purposes of this Act, taken to be allocated in respect of the lessee and the lessee is, for the duration of the lease, authorised (subject to this Act) to keep approved gaming machines in accordance with any such poker machine entitlements.

- (3) If the lessee assigns the lease to another person in accordance with the terms of the lease, the lessee may, in accordance with this Act, transfer any poker machine entitlements held by the lessee to the other person as part of the assignment.
- (4) For the purposes of subclause (2), the duration of the contractual arrangements includes any extension of those arrangements that is legally enforceable (such as an option for renewal).

9 Updating of certain references

Subject to the regulations, in any Act (other than this Act) or in any instrument made under an Act or in any other document:

- (a) a reference to:
 - (i) an approved amusement device within the meaning of the *Liquor Act 1982*, or
 - (ii) a poker machine, or an approved or authorised poker machine, within the meaning of the *Registered Clubs Act 1976*,

is taken to be a reference to an approved gaming machine within the meaning of this Act, and

- (b) a reference to a poker machine area within the meaning of the *Registered Clubs Act 1976* is taken to be a reference to a gaming machine area within the meaning of this Act.

10 General saving

Anything done under a provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* (being a provision repealed by this Act) that had any force or effect immediately before its repeal is, to the extent that it could have been done under the corresponding provision of this Act, taken to have been done under this Act, subject to any express or implied provision to the contrary in this Act or the regulations made under this Act.

Schedule 2 Amendment of Liquor Act 1982

(Section 212)

[1] Section 2B Gambling harm minimisation and responsible conduct of gambling activities are primary objects of the Act

Omit the section.

[2] Section 4 Definitions

Omit the following definitions from section 4 (1):

amusement device dealers's licence
amusement device seller's licence
amusement device technician's licence
approved amusement device
approved gaming device
approved poker machine
authorised poker machine
authorised CMS
centralised cash control equipment
centralised monitoring system (CMS)
CMS licensee
connected
gaming-related licence
poker machine
subsidiary equipment
TAB

[3] Section 4 (1)

Insert in alphabetical order:

approved gaming machine has the same meaning as in the *Gaming Machines Act 2001*.

[4] Section 4 (1), definition of “licensed premises”

Omit “licence, or” from paragraph (b) of the definition.
Insert instead “licence.”.

[5] Section 4 (1), paragraph (c) of definition of “licensed premises”

Omit the paragraph.

[6] Section 4 (8)

Insert “or 5” after “Schedule 4”.

[7] Section 11 Sitings of the court

Insert after section 11 (4):

- (5) A reference in subsection (4) to a licence includes a reference to a gaming-related licence within the meaning of the *Gaming Machines Act 2001*.

[8] Section 12 Procedure before Licensing Court

Insert “, section 197 of the *Gaming Machines Act 2001*” after “this Act” in section 12 (2).

[9] Section 17B Remedial orders

Omit the section.

[10] Section 20 Conditions of licences

Omit “or section 125D (Responsible conduct of gambling activities)” from section 20 (2) (a1).

[11] Section 20 (2) (c1)

Omit the paragraph.

[12] Section 20 (4A)

Omit “approved amusement device in accordance with this Act and the other conditions to which the licence is subject”.

Insert instead “approved gaming machine in accordance with the *Gaming Machines Act 2001*”.

[13] Section 21AA Statutory condition of every hotelier’s licence

Omit the section.

[14] Section 23AD Restaurant and nightclub licences—dine-or-drink authority

Insert “such as pinball machines” after “amusement devices” in section 23AD (6) (d).

[15] Sections 24 (4), 45 (6), 101 (1) (d), (8) (a) and (9) and 111C (2) (a)

Omit “approved gaming devices” and “approved gaming device” wherever occurring.

Insert instead “approved gaming machines” and “approved gaming machine” respectively.

[16] Section 36 Restrictions on liquor licence applications

Omit section 36 (1).

[17] Section 36A Restrictions on applications for gaming-related licences

Omit the section.

[18] Section 41 Application for transfer of licence

Omit “a gaming-related licence or” from section 41 (1).

[19] Section 45 Grounds of objection

Omit section 45 (2AA), (4) (c1) and (c2), (5) and (7).

[20] Section 45 (4)

Omit “, (2AA)”.

[21] Section 49A Grant of hotelier’s licence—operations involving approved gaming devices

Omit the section.

[22] Section 56 Fee for grant of licence

Omit section 56 (1) (n).

[23] Section 57 Removal of hotelier’s licence or off-licence (retail)

Omit section 57 (1A) (c) and (d).

[24] Section 68 Grounds for complaint

Omit section 68 (1) (l).

[25] Section 69A Application of Division

Omit section 69A (1).

[26] Section 77 Annual report of Board

Insert “and the *Gaming Machines Act 2001*” after “this Act” in section 77 (1) (a).

[27] Part 5 Late payment of AAD licences fees

Omit the Part.

[28] Section 90 Boundaries of licensed premises

Omit section 90 (4). Insert instead:

- (4) The Board must not define or redefine the boundaries of licensed premises or proposed licensed premises in relation to a hotelier’s licence unless it is of the opinion that the primary purpose test (within the meaning of the *Gaming Machines Act 2001*) in respect of the hotel is complied with.

[29] Section 91A Restrictions on use of “casino” etc to advertise licensed premises

Omit the section.

[30] Section 92 Gaming-related advertising

Omit the section.

[31] Section 101 Control of licensed premises

Omit “Subsection (3) does not apply to or in respect of a licence held by a body corporate unless the licence is a gaming-related licence.” from section 101 (7).

[32] Section 101A Directions as to character of licensed premises

Omit the section.

[33] Section 110 Powers of entry, inspection and seizure

Omit “documents, or” from section 110 (3) (c).
Insert instead “documents.”.

[34] Section 110 (3) (d)

Omit the paragraph.

[35] Section 117C Licensees liable for use of approved amusement device by minor

Omit the section.

[36] Section 117D Use of approved amusement device by minor prohibited

Omit the section.

[37] Section 117EB Manufacturing false proof of age cards

Insert “, the *Gaming Machines Act 2001*” after “this Act” wherever occurring in section 117EB (1) and (2).

[38] Section 117EC Giving or lending proof of age cards

Insert “the *Gaming Machines Act 2001*” after “this Act,” in section 117EC (a).

[39] Section 117EC (b)

Insert “, the *Gaming Machines Act 2001*” after “this Act” in section 117EC (b).

[40] Section 125D Responsible conduct of gambling activities

Omit the section.

[41] Section 125F Industry codes of practice

Omit the section.

[42] Section 126 Gaming on licensed premises

Omit section 126 (4). Insert instead:

(4) Nothing in this section affects section 7 of the *Gaming Machines Act 2001*.

[43] Section 140 Averments

Omit section 140 (1) (d3)–(d5) and (d13).

[44] Section 145 Proceedings for offences

Omit the Table to the section. Insert instead:

Table (Offences to which 3 year time limit applies)

An offence under section 37, 69B, 69E, 101, 105A, 105B, 121, 122, 123, 124, 125B, 136, 139 or 155A of this Act.

[45] Section 150A

Omit the section. Insert instead:

150A Protection from personal liability

Anything done or omitted to be done by a person who is:

- (a) a member of the Board, or
- (b) a special inspector or a member of the Police Service, or

- (c) an officer or temporary employee appointed or employed under the *Public Sector Management Act 1988*,

in exercising the functions conferred or imposed on the person by or under this Act or in the course of the administration of this Act does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

[46] Section 150B Liability with respect to self-exclusion schemes

Omit the section.

[47] Section 152A Confiscation of proof of age cards

Insert “, the *Gaming Machines Act 2001*” after “this Act” wherever occurring in section 152A (1) (c), (4) (c) and (5) (b).

[48] Section 154B Notification of change of employer

Omit the section.

[49] Section 155B Transfer of Board’s functions under this Act relating to approved gaming devices

Omit the section.

[50] Section 155C Control of information obtained by CMS licensee

Omit the section.

[51] Section 156 Regulations

Omit section 156 (1A).

[52] Part 11 Approved gaming devices

Omit the Part.

[53] Part 12 Inter-hotel linked gaming systems

Omit the Part.

[54] Part 13 Investment licences

Omit the Part.

[55] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Gaming Machines Act 2001, to the extent that it amends this Act

Schedule 3 Amendment of Registered Clubs Act 1976

(Section 213)

[1] Section 3A Gambling harm minimisation and responsible conduct of gambling activities are primary objects of the Act

Omit the section.

[2] Section 4 Definitions

Omit the following definitions from section 4 (1):

adviser's licence

approved amusement device

approved gaming device

approved poker machine

authorised centralised monitoring system

authorised poker machine

centralised cash control equipment

CMS licensee

connected

dealer's licence

established poker machine

gaming-related licence

linkage equipment

linked system

multi-terminal gaming machine

poker machine

seller's licence

subsidiary equipment

technician's licence

testing facility licence

[3] Section 4 (1)

Insert in alphabetical order:

approved gaming machine has the same meaning as in the *Gaming Machines Act 2001*.

hotel has the same meaning as in the *Liquor Act 1982*.

[4] Section 4A Meaning of “close associate”

Omit clause 4A (2).

[5] Section 9A Conditions relating to certificate of registration

Omit “or 44C (Responsible conduct of gambling activities)” from section 9A (1A).

[6] Section 9A (1AA)

Insert after section 9A (1A):

(1AA) It is a condition of the certificate of registration of a club that the club must not:

- (a) hold a hotelier’s licence under the *Liquor Act 1982*, or
- (b) acquire any financial interest in respect of a hotel.

[7] Section 9A (3), (3B), (5) and (5B)

Omit the subsections.

[8] Section 9A (4)

Omit “(3) or”.

[9] Section 9A (5A)

Omit “a poker machine in accordance with this Act and the other conditions to which the registration of the club is subject”.

Insert instead “an approved gaming machine in accordance with the *Gaming Machines Act 2001*”.

[10] Section 10 Requirements to be met by clubs

Omit section 10 (1) (k). Insert instead:

- (k) The secretary or manager, or any employee, or a member of the governing body or of any committee, of the club is not entitled to receive, either directly or indirectly, any payment calculated by reference to:
 - (i) the quantity of liquor purchased, supplied, sold or disposed of by the club or the receipts of the club for any liquor supplied or disposed of by the club, or
 - (ii) the keeping or operation of approved gaming machines in the club.

[11] Section 10 (1) (m)

Insert after section 10 (1) (l):

- (m) The club is to include the following information in its annual report to its members:
 - (i) the total value of the remuneration packages (comprising salary, allowances and other benefits) of over \$100,000 per year paid or payable to the 5 highest paid employees of the club (as reported alongside each successive \$10,000 band of income over \$100,000),
 - (ii) any financial interest acquired by a relevant person (within the meaning of section 39A) in respect of a hotel that the person has declared under that section,
 - (iii) details (including the main purpose) of any overseas travel by a director or employee of the club, or by the secretary or manager of the club, in the person's capacity as a director or employee or as the secretary or manager, including the costs wholly or partly met by the club for the director, employee, secretary or manager and any other person connected with any such travel,

- (iv) the total amount of the profits (within the meaning of the *Gaming Machine Tax Act 2001*) during the year from the operation of approved gaming machines in the club,
- (v) the amount applied by the club to community development and support under Part 4 of the *Gaming Machine Tax Act 2001*.

[12] Section 10 (6) (c)

Omit “current dealer’s licence, seller’s licence or adviser’s licence”.

Insert instead “dealer’s licence, seller’s licence or adviser’s licence (within the meaning of the *Gaming Machines Act 2001*)”.

[13] Sections 10 (6) (c), 25 (7) (a), 30 (2) (h), 43A (1) (b) and 54 (2) (Gaming machines not permitted in certain areas)

Omit “a poker machine” and “poker machines” wherever occurring.

Insert instead “an approved gaming machine” and “approved gaming machines” respectively.

[14] Section 17 Determination of complaints against registered clubs

Omit section 17 (1AA) (a) (xvii).

[15] Part 2, Division 1A

Insert after Division 1 of Part 2:

Division 1A Provisions relating to club amalgamations

17AB Operation of this Division

The provisions of this Division are to be construed with, and as if they formed part of, section 17A.

17AC Definitions

(1) In this Division:

dissolved club, in relation to the amalgamation or proposed amalgamation of 2 or more registered clubs, means any club that, as a result of the amalgamation, is or would be dissolved.

main premises of a parent club means the premises that are, in the opinion of the Board, the main premises of the club.

metropolitan area means any of the following areas as determined by the Australian Bureau of Statistics:

- (a) the Sydney Statistical Division,
- (b) the Statistical Local Areas of Newcastle (Statistical Local Areas 5901 and 5902),
- (c) the Statistical Local Area of Lake Macquarie (Statistical Local Area 4650),
- (d) the Statistical Local Area of Wollongong (Statistical Local Area 8450).

parent club, in relation to the amalgamation or proposed amalgamation of 2 or more registered clubs, means the club that, as the result of the amalgamation, is or would become the amalgamated club.

same area, in relation to the amalgamation or proposed amalgamation of 2 or more registered clubs, means:

- (a) if the main premises of the parent club are situated in a metropolitan area—the area within 1 kilometre of the main premises of the parent club, or
 - (b) if the main premises of the parent club are not situated in a metropolitan area—the area within 50 kilometres of the main premises of the parent club.
- (2) Before the Licensing Court approves the amalgamation of 2 or more registered clubs, the parent club must, under its rules, establish the members of the dissolved club as a separate class of members. Such members are to be identified by the parent club as, and are referred to this Division as, ***the members of the dissolved club***.

17AD Deed of amalgamation

- (1) The Licensing Court may not approve the amalgamation of 2 or more registered clubs unless the Court is satisfied that the clubs have entered into a deed of amalgamation with respect to the proposed amalgamation.

- (2) Subject to the regulations, the following matters are to be included in a deed of amalgamation:
- (a) the outcome that each club expects from the amalgamation,
 - (b) the terms and conditions of the amalgamation,
 - (c) the kind of amalgamation to be effected as referred to in section 17A (1),
 - (d) the manner in which the identity of the dissolved club is to be continued by the parent club,
 - (e) the manner in which support for the local community provided by the dissolved club is to be maintained by the parent club,
 - (f) a list of the major assets of the dissolved club,
 - (g) the assigning of responsibility for the debts and liabilities of the dissolved club,
 - (h) the terms under which the administration of the business of the dissolved club is to be transferred to the parent club, including the transferring of the assets and records of the dissolved club (or any other information or material that is reasonably required by the parent club for the administration of the business),
 - (i) the number of premises to be maintained by the parent club,
 - (j) the extent to which the management and staff of the dissolved club are to be retained by the parent club,
 - (k) the management structure of the parent club,
 - (l) the number of members, and the classes of membership, of the dissolved club and of the parent club,
 - (m) the admission to membership of the parent club of the members of the dissolved club,
 - (n) the payment of any costs arising out of the execution of the deed,
 - (o) the resolution of disputes arising under the deed,
 - (p) the variation and termination of the deed,
 - (q) such other matters as may be specified in the regulations.

- (3) The Licensing Court may not approve the amalgamation of 2 or more registered clubs unless the Court is satisfied that a copy of the deed of amalgamation has been publicly exhibited at the premises of each club that is a party to the proposed amalgamation for at least 14 days before the date of the hearing of the application under section 17A in relation to the amalgamation.

17AE Club members to be notified of proposed amalgamation

- (1) The Licensing Court may not approve the amalgamation of 2 or more registered clubs unless the Court is satisfied that the requirements of this section have been complied with in relation to the proposed amalgamation.
- (2) A registered club that is a party to a proposed amalgamation must, in accordance with the regulations, notify its members of the proposed amalgamation.
- (3) Subject to the regulations, the notice to the members is to contain the following information:
 - (a) a summary of the way in which the proposed amalgamation is likely to be effected,
 - (b) whether the amalgamation is supported by the directors of both the parent club and the dissolved club and, if any directors do not support the amalgamation, a brief statement of the reasons why it is not supported,
 - (c) the alternatives (if any) to amalgamation that have been considered by the directors of the clubs involved,
 - (d) the primary objects and principal activities of the dissolved club and the way in which those objects and activities are to be maintained by the parent club,
 - (e) the major assets (including cash) of the dissolved club and what is to happen to those assets if the amalgamation proceeds (including any undertakings on the part of the parent club in relation to those assets),
 - (f) any significant items of memorabilia that belong to the dissolved club (as identified by the directors of the dissolved club) and the uses that are proposed for such items after the amalgamation,

- (g) the number of members, and the classes of membership, of the dissolved club and of the parent club,
 - (h) the steps that are proposed to be taken in relation to admitting the members of the dissolved club as members of the parent club,
 - (i) an estimate of the effect of the proposed amalgamation on the parent club's budget, along with an analysis of its projected cash flow and profitability in the current financial year and for the 2 financial years following the proposed amalgamation,
 - (j) such other information as may be required by the regulations.
- (4) The notice to the members must also contain the following:
- (a) a statement indicating that the following information is available on the notice board of each of the registered clubs that is a party to the proposed amalgamation:
 - (i) a copy of the most recent published accounts of each of those clubs,
 - (ii) a copy of the constitution or rules of each of those clubs,
 - (b) a statement to the effect that a written objection to the granting of an application in respect of the proposed amalgamation may be taken in accordance with sections 25 (2) and 26,
 - (c) a statement to the effect that the form of the proposed amalgamation is a matter to be agreed on by the directors of the parent club and the dissolved club.

17AF General limit of 4 amalgamations per club

- (1) A registered club (including a club that has already been formed by, or continued as the result of, an amalgamation) may amalgamate with a total of no more than 4 other registered clubs over any period of time.
- (2) However, the Licensing Court may, subject to this Division, approve an amalgamation that would result in a registered club amalgamating with a total of more than 4 clubs if the Court is satisfied that a commitment to the amalgamation was made before 26 July 2001.

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- (3) Such a commitment is established if:
- (a) an application under section 17A in relation to the proposed amalgamation was made before 26 July 2001, or
 - (b) the Licensing Court is satisfied that the members of the clubs proposing to amalgamate had voted, before that date, in support of the proposed amalgamation, or
 - (c) the Court is satisfied that there is documentary evidence, made or prepared before that date, of an intention to amalgamate (such as a memorandum of understanding between the clubs proposing to amalgamate).
- (4) In calculating the number of amalgamations in respect of a registered club for the purposes of this section, any amalgamation by the club with another registered club in the same area is to be disregarded.
- (5) For the purposes of this section, the number of amalgamations in respect of a registered club over any period of time includes any amalgamations involving the club that were effected before the commencement of this Division.

17AG Clubs that have already amalgamated with more than 4 other clubs

- (1) In this section:
- special category club* means a registered club that has, before the commencement of this Division, amalgamated with a total of more than 4 other registered clubs.
- (2) In calculating the number of amalgamations in respect of a registered club for the purposes of this section, any amalgamation by the club with another registered club in the same area is to be disregarded.
- (3) A special category club cannot, as from the commencement of this Division, amalgamate with another registered club.
- (4) However, the Licensing Court may, subject to this Division, approve an amalgamation that would result in a special category club amalgamating with another club if the Court is satisfied that a commitment to the amalgamation was made before 26 July 2001.

- (5) Such a commitment is established if:
- (a) an application under section 17A in relation to the proposed amalgamation was made before 26 July 2001, or
 - (b) the Licensing Court is satisfied that the members of the clubs proposing to amalgamate had voted, before that date, in support of the proposed amalgamation, or
 - (c) the Court is satisfied that there is documentary evidence, made or prepared before that date, of an intention to amalgamate (such as a memorandum of understanding between the clubs proposing to amalgamate).

17AH Clubs allowed to amalgamate if situated in same area only

- (1) 2 or more registered clubs may amalgamate only if the clubs to be amalgamated are situated in the same area.
- (2) However, if in relation to a proposed amalgamation, the Licensing Court is satisfied that the parent club:
 - (a) is not able to amalgamate with another club in the same area, the Licensing Court may, subject to this Division, allow the parent club to amalgamate with another club that is not situated in the same area but which has similar objects and activities as the parent club, or
 - (b) is not able to amalgamate with another club in the same area, or with another club having similar objects and activities as the parent club, the Licensing Court may, subject to this Division, allow the parent club to amalgamate with any other club.

17AI Major assets of dissolved club to be kept intact

- (1) During the period of 3 years after the approval by the Licensing Court of the amalgamation of 2 or more registered clubs, the parent club must not dispose of any of the major assets of a dissolved club unless the disposal has been approved by the Board.

Maximum penalty: 100 penalty units.

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- (2) The Board may approve of the disposal of any of the major assets of the dissolved club only if the Board is satisfied that:
- (a) the disposal is necessary to ensure the financial viability of the parent club, and
 - (b) a majority of the members of the dissolved club have approved of the disposal.
- (3) In this section:
major assets of a dissolved club means the assets identified in a notice under section 17AE.

[16] Section 17A Amalgamation of registered clubs

Insert after section 17A (1):

- (1A) This section is subject to Division 1A of this Part.

[17] Sections 22A (6) (d) and 23AA (2) (a)

Omit “devices” and “device” wherever occurring.

Insert instead “machines” and “machine” respectively.

[18] Section 25 Grounds of objection

Insert after section 25 (2) (f):

- (g) Any of the requirements under Division 1A of this Part have not been complied with in relation to the proposed amalgamation.

[19] Section 30 Rules of registered clubs

Insert “within the meaning of the *Gaming Machines Act 2001*” after “poker machines” in section 30 (13) (c).

[20] Section 31 Manner of keeping registers relating to members and guests

Insert after section 31 (2):

- (3) A register referred to in this section must be retained by a registered club for a period of at least 3 years after the date of the last entry in the register.

Maximum penalty: 20 penalty units.

[21] Section 33 Approval of secretary of registered club

Omit section 33 (6). Insert instead:

- (6) Sections 90 and 93–95 of the *Gaming Machines Act 2001* apply in relation to an application for appointment as secretary of a registered club in the same way as those sections apply to an application for a gaming-related licence under that Act.

[22] Section 33A

Insert after section 33:

33A Secretary or manager of club prohibited from holding hotelier's licence

- (1) The person who is the secretary or manager of a registered club must not:
- (a) hold a hotelier's licence under the *Liquor Act 1982*, or
 - (b) acquire any financial interest in respect of a hotel.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply to or in respect of a hotelier's licence or a financial interest in a hotel granted to or acquired by the person concerned before the commencement of this section.

[23] Section 37A

Insert after section 37:

37A Lodgment of certain information

A registered club must, within 1 month after its annual general meeting, lodge with the Board a copy of the information referred to in section 10 (1) (m) that is required to be disclosed in the club's annual report to its members.

Maximum penalty: 10 penalty units.

[24] Section 39A

Insert after section 39:

39A Requirement to declare financial interest in hotels

(1) In this section:

relevant person means any of the following:

- (a) the secretary or manager of a registered club,
- (b) any director of a registered club,
- (c) the 5 highest paid employees of a registered club.

(2) If a relevant person acquired, before the commencement of this section, a financial interest in respect of a hotel, the person must declare that interest at the first meeting of the governing body of the registered club after that commencement.

Maximum penalty: 20 penalty units.

(3) If, at any time after the commencement of this section, a relevant person acquires a financial interest in respect of a hotel, the person must declare that interest at the first meeting of the governing body of the registered club that follows the acquisition of the interest.

Maximum penalty: 20 penalty units.

[25] Section 42B Appeal to Licensing Court

Omit section 42B (3) (g).

[26] Section 43 Definitions

Omit the definition of *poker machine area*.

[27] Section 44C Responsible conduct of gambling activities

Omit the section.

[28] Section 44D Industry codes of practice

Omit the section.

[29] Section 48A Restrictions on use of “casino” etc to advertise club

Omit the section.

[30] Section 50A Minors not permitted in poker machine areas

Omit the section.

[31] Section 50B Display of notices

Omit “and poker machine area” from section 50B (1).

[32] Section 50B (1)

Omit “or area”.

[33] Section 51 Consumption of liquor by persons under 18 years

Omit section 51 (1) (d) and (e) and (3).

[34] Section 52AA Minors passing through bars

Omit “, 50A, 51 (1) (e)” from section 52AA (1).

[35] Section 52AA (1)

Omit “or poker machine area” wherever occurring.

[36] Section 54B Gaming on club premises prohibited

Insert after section 54B (3):

(4) Nothing in this section affects section 7 of the *Gaming Machines Act 2001*.

[37] Section 59C Restrictions on key officials (gaming-related licences)

Omit the section.

[38] Section 59D Restrictions on former key officials (gaming-related licences)

Omit the section.

[39] Section 63 Evidentiary provisions

Omit section 63 (1A) (a)–(c) and (e)–(g).

[40] Section 65 Proceedings for offences arising under this Act

Omit the Table to the section. Insert instead:

Table (Offences to which a 3 year time limit applies)

An offence under section 17AAA, 23, 27A, 27B, 32, 34, 35, 36, 37, 39, 40, 43A, 45, 45A, 47, 49, 55, 59A, 59B or 72C of this Act.

[41] Section 65A Additional penalties

Omit section 65A (2).

[42] Section 65B Remedial orders

Omit the section.

[43] Section 66 Penalty notices

Omit “or Division 6 of Part 11” from section 66 (4) and (6) wherever occurring.

[44] Section 69

Insert after section 68:

69 Identification of special inspectors

- (1) The Minister administering section 109 of the *Liquor Act 1982* is to cause each special inspector to be issued with a means of identification that is approved by the Minister and includes the following information:
 - (a) that the identification is issued under this Act by the Minister administering the *Liquor Act 1982*,
 - (b) the name of the special inspector,
 - (c) that the special inspector is authorised to exercise the powers conferred on a special inspector by this Act.

- (2) A special inspector is not authorised to exercise the functions of a special inspector in relation to a registered club without production of his or her means of identification for inspection:
- (a) by the secretary or manager of the club, or
 - (b) in the absence of the secretary or manager, by the person believed by the inspector to be the most senior person on duty in the club,
- unless to do so would defeat the purpose for which the functions are to be exercised.

[45] Section 70A Functions of the Board

Omit “(including the keeping or operation of poker machines)” from section 70A (b).

[46] Section 70A (d)

Omit “(including the manufacture, assembly, supply, sale, acquisition, servicing, disposal, keeping or operation of poker machines)”.

[47] Section 73 Regulations

Omit section 73 (1A).

[48] Section 74

Insert after section 73A:

74 Protection from personal liability

Anything done or omitted to be done by a person who is:

- (a) a member of the Board, or
- (b) a special inspector or a member of the Police Service, or
- (c) an officer or temporary employee appointed or employed under the *Public Sector Management Act 1988*,

in exercising the functions conferred or imposed on the person by or under this Act or in the course of the administration of this Act does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

[49] Section 76AA

Insert after section 76:

76AA Certain clubs taken to be registered under this Act
Schedule 3 has effect.

[50] Part 10 Keeping of approved gaming devices

Omit the Part.

[51] Part 10A Approved amusement devices

Omit the Part.

[52] Part 10B Freeze on number of approved gaming devices kept by clubs

Omit the Part.

[53] Part 10C Social impact assessment of gaming devices

Omit the Part.

[54] Part 11 Manufacture, sale etc of poker machines

Omit the Part.

[55] Part 12 Inter-club linked gaming systems

Omit the Part.

[56] Schedule 2 Transitional provisions

Insert at the end of clause 1A (1):

Gaming Machines Act 2001, to the extent that it amends this Act

[57] Schedule 2

Insert in appropriate order with appropriate Part and clause numbers:

Part Gaming Machines Act 2001

Prohibition on clubs acquiring financial interest in hotels

Section 9A (1AA), as inserted by Schedule 3 [6] to the *Gaming Machines Act 2001*, does not apply to or in respect of a hotelier's licence or financial interest in a hotel that was granted to or acquired by a registered club before the commencement of that subsection.

Operation of club amalgamation amendments

Division 1A of Part 2 (as inserted by Schedule 3 [15] to the *Gaming Machines Act 2001*) extends to an application under section 17A for the amalgamation of 2 or more registered clubs that was made before the commencement of that Division.

Schedule 4 Amendment of Casino Control Act 1992

(Section 214)

[1] Section 70 Conduct of gaming

Insert “the regulations or” after “unless” in section 70 (1) (f).

[2] Section 70A

Insert after section 70:

70A Advertising in relation to gaming machines

- (1) It is condition of a casino licence that the casino operator must not publish any advertisement relating to gaming machines or cause or permit any such advertisement to be published.
- (2) The condition under subsection (1) does not apply in relation to the casino licence until 6 months after this section commences.
- (3) It is a condition of a casino licence that the casino operator must not, after the commencement of this section, enter into or extend the duration of any contract or arrangement for the publication of any advertisement relating to gaming machines. Any such contract or arrangement entered into or extended after the commencement of this section has no effect.
- (4) Regardless of any other provision of this section, any contract or arrangement for the publication of any advertisement relating to gaming machines that was entered into before the commencement of this section ceases to have effect 6 months after that commencement.
- (5) In this section:
advertisement relating to gaming machines means any advertisement that gives publicity to, or otherwise promotes or is intended to promote, the playing of gaming machines in the casino, but does not include an advertisement that is exempted from the operation of this section by the regulations.
gaming machine has the same meaning as in section 8 (5).

publish includes disseminate in any way, whether by oral, visual, written or other means (for example dissemination by means of cinema, video, radio, electronics, the Internet or television or by means of promotional material, brochures or flyers).

[3] Section 72A

Insert after section 72:

72A Provision of problem counselling services

- (1) It is a condition of a casino licence that the casino operator is to enter into arrangements for problem gambling counselling services to be made available to the patrons of the casino.
- (2) The regulations may make provision for or with respect to the following:
 - (a) the classes of persons who are to provide the counselling services,
 - (b) the nature of the arrangements to be made with such persons,
 - (c) the nature of the counselling services that are to be made available,
 - (d) the manner in which those services are to be provided.

[4] Section 76A

Insert after section 76:

76A Regulation of promotional prizes and player reward schemes

- (1) In this section:

gaming machine has the same meaning as in section 8 (5).

player reward scheme means a system used in connection with the operation of gaming machines in the casino and in which the players of the gaming machines accumulate bonus or reward points from playing the gaming machines.

promotional prize means any prize or reward (including bonus points) offered by the casino operator to the patrons of the casino in connection with a player reward scheme or any other marketing or promotional activity that involves gaming machines.

- (2) It is a condition of a casino licence that the casino operator must not:
 - (a) offer or present a promotional prize in the form of cash, or
 - (b) offer or present a promotional prize that exceeds \$1,000 in value, or
 - (c) permit a patron of the casino to exchange a promotional prize for cash, or
 - (d) permit any bonus or reward points accumulated under a player reward scheme to be redeemed for cash.
- (3) Subsection (2) does not apply to or in respect of such prizes as are prescribed by the regulations for the purposes of this section.
- (4) If the casino operator conducts a player reward scheme, it is a condition of the casino licence that the casino operator:
 - (a) advise the participants in the scheme of the availability of player activity statements that relate to the playing of gaming machines under the scheme, and
 - (b) if requested to do so by any such participant, provide the participant with a player activity statement.
- (5) The regulations may make provision for or in respect of player reward schemes and any matter concerning player activity statements (including the details to be included in player activity statements).
- (6) A condition under this section does not apply in relation to the casino licence until 6 months after this section commences.

Schedule 5 Amendment of other Acts

(Section 215)

5.1 Duties Act 1997 No 123

[1] Section 11 What is “dutable property”?

Insert after section 11 (1) (h):

- (h1) a poker machine entitlement within the meaning of the *Gaming Machines Act 2001*,

[2] Section 65 Exemptions from duty

Omit section 65 (7). Insert instead:

- (7) **Poker machine permits and entitlements**
No duty is chargeable under this Chapter:

- (a) on the transfer of:
 - (i) a Liquor Act poker machine permit (within the meaning of the *Gaming Machines Act 2001*), or
 - (ii) a poker machine entitlement (within the meaning of that Act),

that occurs as a consequence of the transfer of a hotelier’s licence under the *Liquor Act 1982* that is not chargeable with duty under this Chapter, or

- (b) on the vesting or transfer of any such permit or entitlement, if the Chief Commissioner is satisfied that:
 - (i) there is no change, or contemplated change, in the beneficial ownership of the permit or entitlement as a consequence of the vesting or transfer, or
 - (ii) the vesting or transfer occurs as a consequence of an agreement for the sale or transfer of dutiable property on which the duty chargeable in respect of the agreement has been paid.

5.2 Gambling Legislation Amendment (Responsible Gambling) Act 1999 No 49

[1] Schedule 2 Amendment of Liquor Act 1982 No 147

Omit items [5] and [11] of the Schedule.

[2] Schedule 6 Amendment of Registered Clubs Act 1976 No 31

Omit items [4] and [9] of the Schedule.

5.3 Gaming Machine Tax Act 2001 No 72

[1] Section 3 Definitions

Omit the definitions of *authorised CMS*, *CMS licensee* and *gaming machine* from section 3 (1).

Insert instead:

authorised CMS has the same meaning as in the *Gaming Machines Act 2001*.

CMS licensee means the holder of a CMS licence within the meaning of the *Gaming Machines Act 2001*.

gaming machine means an approved gaming machine within the meaning of the *Gaming Machines Act 2001*.

[2] Section 3 (1), definition of “outgoings”

Omit “Part 12 of the *Liquor Act 1982* or under Part 12 of *Registered Clubs Act 1976*” from paragraph (d) of the definition.

Insert instead “Part 10 of the *Gaming Machines Act 2001*”.

[3] Section 7 Payment by instalments

Omit “Maximum penalty (subsection (3))” from section 7 (3).

Insert instead “Maximum penalty”.

[4] Section 16 Community development and support expenditure (CDSE) scheme

Insert “(the *CDSE guidelines*)” after “guidelines” in section 16 (1).

[5] Section 16 (2) and (4)

Insert “CDSE” before “guidelines” wherever occurring.

[6] Section 16 (3)

Omit the subsection. Insert instead:

- (3) Provisions of the CDSE guidelines that from time to time define the terms *Category 1 projects and services* and *Category 2 projects and services* for the purposes of Schedule 1 are to be settled in consultation with Clubs NSW and the Council of Social Service of New South Wales.

[7] Section 17 Tax rebate for community development and support expenditure

Omit section 17 (3). Insert instead:

- (3) However, the amount of tax payable under section 14 (3) (b) is not to be reduced by this section if the Board is satisfied, on the information provided by a CDSE Local Committee in accordance with the CDSE guidelines, that the registered club claiming the reduction has not complied with the CDSE guidelines.

- (4) In this section:

CDSE Local Committee means a committee established under the CDSE guidelines.

prescribed profits means so much of the profits from gaming machines kept on the premises of a registered club during a tax year as exceeds \$1,000,000.

[8] Section 20 Exemption from tax liability in certain cases of hardship

Omit “poker” from section 20 (1) (d). Insert instead “approved gaming”.

[9] Schedule 1, heading

Omit “community development and support by registered clubs”.

Insert instead “Community Development and Support Expenditure (CDSE) Scheme”.

[10] Schedule 1, clause 1

Omit the clause. Insert instead:

1 Minimum proportion of profits to be expended on Category 1 projects and services

Of the funds claimed by a registered club to have been applied to community development and support:

- (a) amounts of not less than 0.75% of prescribed profits (within the meaning of section 17) must have been applied to Category 1 projects and services that comprise community welfare and social services, community development, community health services and employment assistance activities, and
- (b) the balance may be applied to Category 2 projects and services.

[11] Schedule 1, clause 2

Omit the clause.

[12] Schedule 1, clause 3

Omit the clause. Insert instead:

3 Community priorities identified by CDSE Local Committees

The CDSE Local Committee for each area of the State in which such a committee is established is to identify the community social expenditure priorities for that area and make the information available to registered clubs (either directly or by furnishing it to Clubs NSW) so that clubs may determine their expenditure with respect to Category 1 projects and services.

[13] Schedule 1, clauses 4 and 5

Insert “CDSE” before “guidelines” wherever occurring.

[14] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

Gaming Machines Act 2001

[15] Schedule 2, clause 5

Insert “the CDSE” before “guidelines”.

**5.4 Liquor and Registered Clubs Legislation Amendment Act 2001
No 73**

[1] Section 2 Commencement

Omit section 2 (3) and (4).

[2] Schedule 1 Amendment of Liquor Act 1982

Omit items [13]–[16] of the Schedule.

[3] Schedule 2 Amendment of Registered Clubs Act 1976

Omit items [4]–[7] of the Schedule.

5.5 Local Government Act 1993 No 30

Dictionary

Omit “an approved amusement device (within the meaning of the *Liquor Act 1982*) or poker machine (within the meaning of the *Registered Clubs Act 1976*)” from the definition of *entertainment*.

Insert instead “an approved gaming machine within the meaning of the *Gaming Machines Act 2001*”.

5.6 Search Warrants Act 1985 No 37

[1] Section 10 Definitions

Insert in alphabetical order of Acts in the definition of *search warrant*:
section 184 of the *Gaming Machines Act 2001*,

[2] Section 10, definition of “search warrant”

Omit the matter relating to the *Liquor Act 1982*. Insert instead:
section 151 of the *Liquor Act 1982*,

[3] Section 10, definition of “search warrant”

Omit the matter relating to the *Registered Clubs Act 1976*.

5.7 Unlawful Gambling Act 1998 No 113

Section 7 Lawful forms of gambling

Omit section 7 (f)–(i). Insert instead:

- (f) keeping or operating an approved gaming machine within the meaning of the *Gaming Machines Act 2001* in a hotel or registered club in accordance with that Act,
- (g) exhibiting any device for promotional purposes if the device:
 - (i) is exhibited by the holder of a dealer’s licence or seller’s licence within the meaning of the *Gaming Machines Act 2001*, and
 - (ii) is exhibited with the approval of the Liquor Administration Board and in compliance with any conditions to which the approval is subject, and

Gaming Machines Act 2001 No 127

Schedule 5 Amendment of other Acts

- (iii) is designed to be used to play a game that could lawfully be played by means of an approved gaming machine within the meaning of the *Gaming Machines Act 2001*, and
- (iv) is not used for the purposes of gambling,
- (h) the possession, keeping, use or operation of a poker machine within the meaning of the *Gaming Machines Act 2001*, or a device that is in the nature of an approved amusement device within the meaning of that Act, in the circumstances referred to in section 8 of that Act.

[Minister's second reading speech made in—
Legislative Assembly on 30 November 2001
Legislative Council on 6 December 2001]

BY AUTHORITY