

Passed by both Houses



New South Wales

Casino, Liquor and Gaming Control Authority Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Casino, Liquor and Gaming Control Authority Bill 2007

Act No , 2007

An Act to constitute the Casino, Liquor and Gaming Control Authority and to specify its functions; to provide for the probity of officials under the gaming and liquor legislation; to confer investigation and enforcement powers for the purposes of that legislation; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Casino, Liquor and Gaming Control Authority Act 2007*.

2 Commencement

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

3 Definitions

(1) In this Act:

Authority means the Casino, Liquor and Gaming Control Authority constituted by this Act.

casino, casino licence, casino operator, gaming equipment and operations have the same meanings as in the *Casino Control Act 1992*.

Chief Executive means the Chief Executive of the Casino, Liquor and Gaming Control Authority holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

close associate—see section 5.

controlled contract means a contract within the meaning of section 36 of the *Casino Control Act 1992*.

Director means the Director of Liquor and Gaming holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

exercise a function includes perform a duty.

function includes a power, authority or duty.

gaming and liquor legislation—see section 4.

gaming or liquor licence means a licence under the gaming and liquor legislation, and **gaming and liquor licensee** includes a casino operator or a registered club.

inspector means a member of staff appointed by the relevant Division Head under section 20 to be an inspector for the purposes of the gaming and liquor legislation, and includes the Director.

key official means any of the following:

- (a) a member of the Authority,
- (b) the relevant Division Head,
- (c) the Director,

-
- (d) a member of staff who is the subject of a current written order by the relevant Division Head that has been served on the member of staff and is to the effect that the member is a key official for the purposes of the gaming and liquor legislation,
 - (e) a consultant to the Authority who is the subject of a current written order by the Authority that has been served on the consultant and is to the effect that the consultant is a key official for the purposes of the gaming and liquor legislation,
 - (f) the Commissioner of Police or a police officer who holds the position of Patrol Commander or a higher ranked or graded position but is not referred to in paragraph (g),
 - (g) a member of the NSW Police Force who 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 the gaming and liquor legislation.

member of staff means any person (other than the Chief Executive) who is employed in the relevant Division, and includes:

- (a) any police officer who is performing services for the Authority under section 9 (3) (a), and
- (b) any person whose services are made use of by the Authority under section 9 (3) (b).

member of the Authority means the Chief Executive and any person appointed under section 7.

premises includes:

- (a) a building or structure, or
- (b) land or a place (whether enclosed or built on or not), or
- (c) a vehicle, vessel or aircraft.

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

registered club means a club that holds a club licence under the *Liquor Act 2007*.

relevant Division means the Division of the Government Service comprising those persons who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Authority to exercise its functions.

relevant Division Head means the person exercising functions as the Division Head of the relevant Division.

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

4 Meaning of “gaming and liquor legislation”

In this Act:

gaming and liquor legislation means any of the following Acts and the regulations and other instruments made under those Acts:

- (a) this Act,
- (b) *Casino Control Act 1992*,
- (c) *Gaming Machines Act 2001*,
- (d) *Liquor Act 2007*,
- (e) *Registered Clubs Act 1976*.

5 Meaning of “close associate”

- (1) For the purposes of the gaming and liquor legislation, a person is a ***close associate*** of an applicant for, or the holder of, a gaming or liquor licence if the person:

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the applicant or licensee that is or will be carried on under the authority of the licence, and by virtue of that interest or power is or will be able (in the opinion of the Authority) to exercise a significant influence over or with respect to the management or operation of that business, or
- (b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the applicant or licensee that is or will be carried on under the authority of the licence.

- (2) In this section:

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

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

relevant position means:

- (a) the position of director, manager or secretary, or

-
- (b) any other position, however designated, if it is an executive position.

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

- (a) to participate in any directorial, managerial or executive decision,
or
 - (b) to elect or appoint any person to any relevant position.
- (3) For the purposes of this section, a financial institution is not a close associate by reason only of having a relevant financial interest in relation to a business.
 - (4) For the purposes of this section, a Presiding Officer (within the meaning of the *Parliamentary Precincts Act 1997*) is not, in the case of a licence under the *Liquor Act 2007*, a close associate of an applicant for a licence or the holder of a licence that relates to premises within the Parliamentary precincts.

Part 2 Constitution and functions of Authority

6 Constitution of Authority

- (1) There is constituted by this Act a corporation with the corporate name of the Casino, Liquor and Gaming Control Authority.
- (2) The Authority is a NSW Government agency.
- (3) The Authority is not subject to the direction or control of the Minister, except to the extent specifically provided for in the gaming and liquor legislation.

Note. Sections 5, 7, 9 and 10 of the *Casino Control Act 1992* and section 205 of the *Gaming Machines Act 2001* are examples of when the Authority exercises its functions subject to the control, or at the direction of, the Minister.

7 Members of Authority

- (1) The Authority consists of:
 - (a) the Chief Executive, and
 - (b) such number of other members as are appointed by the Governor on the recommendation of the Minister.
- (2) At least one of the members of the Authority (other than the Chief Executive) must be a person who:
 - (a) is or has been a Judge, or
 - (b) has been an Australian lawyer for at least 7 years.
- (3) One of the members of the Authority (other than the Chief Executive) is to be appointed as Chairperson of the Authority in and by the member's instrument of appointment or a subsequent instrument executed by the Governor.
- (4) One of the other members of the Authority (other than the Chief Executive) is to be appointed as Deputy Chairperson of the Authority in and by the member's instrument of appointment or a subsequent instrument executed by the Governor.
- (5) Schedule 1 has effect with respect to the members and procedure of the Authority.

8 Chief Executive to manage the Authority

The affairs of the Authority are to be managed and controlled by the Chief Executive in accordance with the directions of the Authority.

9 General functions of Authority

- (1) The Authority has the functions conferred or imposed on it by or under:

- (a) the gaming and liquor legislation, or
 - (b) any other legislation.
- (2) The Authority cannot employ any staff.
- Note.** Staff to enable the Authority to exercise its functions may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service.
- (3) The Authority may however:
- (a) arrange for police officers to be made available to perform services for the Authority, and
 - (b) arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a Division of the Government Service (other than the relevant Division) or a public or local authority, and
 - (c) engage such consultants as it requires to exercise its functions.

10 Committees

- (1) The Authority may establish committees to assist it in connection with the exercise of any of its functions.
- (2) A committee of the Authority need not include a member of the Authority.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Authority or (subject to any determination of the Authority) by the committee.

11 Arrangements for supply of Police records

- (1) The Authority and the Commissioner of Police may enter into arrangements for the supply to the Authority of information contained in the records of the NSW Police Force, to assist in the effectual administration of the gaming and liquor legislation.
- (2) Those arrangements are sufficient authority for the supply of that information.

12 Disclosure of spent convictions

The Authority is taken to be a law enforcement agency for the purposes of section 13 of the *Criminal Records Act 1991*.

13 Delegation of Authority's functions

- (1) The Authority may delegate to an authorised person or body the exercise of any of its functions other than this power of delegation.

Clause 13 Casino, Liquor and Gaming Control Authority Bill 2007

Part 2 Constitution and functions of Authority

(2) The Authority cannot, however, delegate its functions under sections 18, 19, 22, 23, 28 and 59 of the *Casino Control Act 1992*.

(3) In this section:

authorised person or body means:

- (a) a member of staff, or
- (b) a committee of the Authority, or
- (c) a person of a class prescribed by the regulations.

Part 3 Probity

14 Persons engaged in administration of gaming and liquor legislation to be of highest integrity

- (1) This section applies to the following positions:
 - (a) member of the Authority,
 - (b) member of staff designated by the Authority in writing for the purposes of this section,
 - (c) consultant to the Authority designated by the Authority in writing for the purposes of this section.
- (2) A person is not eligible to be appointed to, or to hold, a position to which this section applies unless the person possesses the highest standard of integrity.
- (3) The question of whether a person possesses the highest standard of integrity is to be determined by the person responsible for the position concerned, namely:
 - (a) the Minister—in the case of the position of member of the Authority, or
 - (b) the Authority—in the case of the position of member of staff or consultant to the Authority.
- (4) For the purpose of making such a determination, the person responsible for the position must (in the case of proposed appointments) and may (in all other cases) cause to be carried out all such investigations and inquiries as the person considers proper and, in particular, must (in the case of proposed appointments) and may (in all other cases) obtain and consider a report from the Commissioner of Police in relation to any person being considered for appointment to the position, or the holder of the position, as the case requires.
- (5) In carrying out any investigation or inquiry for the purposes of this section, the Authority must comply with such guidelines as the Authority may from time to time establish in connection with the conduct of such an investigation or inquiry.
- (6) The Commissioner of Police is to furnish such a report at the request of the person responsible for the position and may for the purpose of the report require a person to whom the report relates to consent to having his or her photograph, finger prints and palm prints taken.
- (7) If a person fails to co-operate with an investigation or inquiry under subsection (4) in relation to a position to which this section applies:

- (a) in the case of a candidate for appointment to such a position, the person is not eligible to be appointed to the position, and
 - (b) in the case of the holder of such a position, that person is liable to be removed from the position.
- (8) For the purposes of subsection (7), a person fails to co-operate with an investigation or inquiry under subsection (4) if:
- (a) the person refuses or fails to comply with a request for information from the person conducting the investigation or inquiry, or
 - (b) the person refuses or fails to comply with a request for information from the Commissioner of Police in relation to the preparation of a report under subsection (6), or
 - (c) the person refuses or fails to comply with a request for consent under subsection (6).
- (9) No compensation is payable to any person as a consequence of the holder of a position to which this section applies being removed from the position under subsection (7).
- (10) A person is not eligible to be appointed to, or to hold, a position to which this section applies if:
- (a) the person is, or was at any time during the previous 4 years, an employee of a person who is the holder of, or a close associate of the holder of, a casino licence or a party to a controlled contract with the holder of a casino licence, or
 - (b) the person has, or had at any time during the previous 4 years, directly or indirectly any business or financial association with, or any business or financial interest in any matter in conjunction with, a person who is the holder of, or a close associate of the holder of, a casino licence or a party to a controlled contract with the holder of a casino licence.
- (11) For the purposes of subsection (10), *casino licence* includes any licence or other form of authorisation that authorises its holder to conduct casino style gaming in any place outside the State (including outside Australia).
- (12) In the case of the position of a member of staff or consultant to the Authority, the Authority may waive the operation of subsection (10) in a particular case.

15 Destruction of finger prints etc

A person who has possession of any finger prints or palm prints obtained for the purposes of section 14 (or any copies of them) must cause the finger prints or palm prints (or the copies of them) to be

destroyed as soon as possible after the person to whom they relate no longer holds a position to which that section applies.

Maximum penalty: 20 penalty units.

16 Restrictions relating to key officials and former key officials

- (1) A key official or former key official must not:
- (a) hold any type of gaming or liquor licence, or
 - (b) without the approval of the appropriate authority, hold office as a member of the governing body of a registered club, or
 - (c) solicit employment, in any capacity, from a gaming or liquor licensee or from a person known by the official to be a close associate of such a licensee, or
 - (d) be an employee in any capacity of:
 - (i) a gaming or liquor licensee, or
 - (ii) a person known by the official to be a close associate of a gaming or liquor licensee, or
 - (iii) a casino contractor, or
 - (e) 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 gaming or liquor licensee or a person known by the official to be a close associate of such a licensee.

Maximum penalty: 50 penalty units.

- (2) A gaming or liquor licensee or a close associate of such a licensee must not:
- (a) employ, in any capacity, a person known by the licensee or close associate to be a key official or former key official, or
 - (b) 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 known by the licensee or close associate to be a key official or former key official.

Maximum penalty: 50 penalty units.

- (3) Approvals granted by the appropriate authority under this section are to be recorded and available for public inspection.

- (4) In this section:

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

- (a) in the case of a member of staff or former member of staff—the relevant Division Head, or
- (b) in the case of a consultant to the Authority or former consultant to the Authority—the Authority, or
- (c) in the case of a member of the NSW Police Force or former member of the NSW Police Force—the Commissioner of Police, or
- (d) in any other case—the Minister.

casino contractor means a person who is a party to a controlled contract with a casino operator or with a person who is the subject of a notice under section 38 of the *Casino Control Act 1992*.

former key official means a person who was a key official at any time during the previous 4 years (or the previous 3 years in the case of a person who was, immediately before the commencement of this section, a former key official for the purposes of the *Liquor Act 1982*, the *Registered Clubs Act 1976* or the *Gaming Machines Act 2001*) but who is no longer a key official.

17 Secrecy

- (1) A person who acquires information in the exercise of functions under the gaming and liquor legislation must not, directly or indirectly:
 - (a) make a record of the information, or
 - (b) divulge the information to another person,except in the exercise of functions under the gaming and liquor legislation.
Maximum penalty: 50 penalty units.
- (2) Despite subsection (1), information may be divulged:
 - (a) to a particular person or persons, if the Authority certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
 - (b) to a person or body prescribed by the regulations, or
 - (c) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
 - (d) to the Minister, or to a person who is engaged in the administration of the gaming and liquor legislation and is authorised in writing by the Minister to receive information under this section.
- (3) Information to which section 143C of the *Casino Control Act 1992* applies may not be divulged under subsection (2) except with the consent of the Commissioner of Police.

- (4) A person cannot be required:
- (a) to produce in any court any document or other thing that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under the gaming and liquor legislation, or
 - (b) to divulge to any court any information that has come to the person's notice in the exercise of the person's functions under that legislation.
- (5) Despite subsection (4), a person may be required to produce a document or other thing in a court or to divulge information to a court if:
- (a) the Authority certifies that it is necessary in the public interest to do so, or
 - (b) a person to whom the information relates (or to whom the information contained in the document or thing relates) has expressly authorised it to be divulged to or produced in the court.
- (6) A person or body to whom or which information is divulged under subsection (2), and a person or employee under the control of that person or body, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that person, body or employee were a person exercising functions under the gaming and liquor legislation and had acquired the information in the exercise of those functions.
- (7) This section does not apply to the divulging of information to, or the production of any document or other thing to, any of the following:
- (a) the New South Wales Crime Commission,
 - (b) the Independent Commission Against Corruption,
 - (c) the Australian Crime Commission,
 - (d) the NSW Police Force or the police force of another State or a Territory,
 - (e) the Australian Federal Police,
 - (f) any other person or body prescribed for the purposes of this subsection.
- (8) This section does not prevent a person being given access to a document in accordance with the *Freedom of Information Act 1989*, unless the document:
- (a) contains matter the disclosure of which could reasonably be expected to do any of the following:

- (i) prejudice the investigation of any contravention or possible contravention of the law (including any revenue law) whether generally or in a particular case,
 - (ii) enable the existence or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be ascertained,
 - (iii) prejudice the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law (including any revenue law), or
- (b) is a document the disclosure of which would disclose any of the following information:
- (i) information concerning the business, commercial, professional or financial affairs of an applicant for a casino licence under the *Casino Control Act 1992* or a licence under Part 4 of that Act,
 - (ii) information obtained in the course of an investigation of an application for such a licence,
 - (iii) information concerning the system of internal controls and administrative and accounting procedures for a casino.
- (9) In this section:
- court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- produce*** includes permit access to.

Part 4 Investigation and enforcement powers

Division 1 Preliminary

18 Purposes for which powers under Part may be exercised

- (1) Powers may be exercised under this Part for the following purposes:
 - (a) for determining whether there has been compliance with or a contravention of the gaming and liquor legislation,
 - (b) for obtaining information or records for purposes connected with the administration of the gaming and liquor legislation,
 - (c) in connection with exercising the functions of an inspector under the gaming and liquor legislation,
 - (d) generally for administering the gaming and liquor legislation and promoting its objects.
- (2) Without limiting subsection (1), powers may be exercised under this Part in relation to a casino for the purposes of:
 - (a) observing any of the operations of the casino, and
 - (b) determining whether the operation of a casino is being properly conducted, supervised and managed.

19 Effect on other functions

Nothing in this Part affects any function under any other provision of the gaming and liquor legislation or under any other legislation.

20 Appointment and identification of inspectors

- (1) The relevant Division Head may appoint a member of staff to be an inspector for the purposes of the gaming and liquor legislation.
- (2) The Director is taken to have been appointed as an inspector.
- (3) The relevant Division Head is to cause each inspector to be issued with a means of identification in the form approved by the Division Head.
- (4) In the course of exercising the functions of an inspector under the gaming and liquor legislation, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection by the person unless to do so would defeat the purpose for which the functions are to be exercised.

Division 2 Powers to require information or records

21 Requirement to provide information and records

- (1) The Authority or an inspector may, by notice in writing given to a person, require the person to furnish to the Authority or inspector such information or records (or both) as the Authority or inspector requires by the notice in connection with any matter relating to the responsibilities or functions of the Authority under the gaming and liquor legislation.
- (2) Any such notice must specify the manner in which information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished.

22 Provisions relating to records

- (1) A notice under this Division may only require a person to furnish records that are in the person's possession or that are within the person's power to obtain lawfully.
- (2) The body or person to whom any record is furnished under this Division may take copies of it.
- (3) If any record required to be furnished under this Division is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides.

23 Application of Division

This Division applies whether or not a power of entry under Division 3 is being or has been exercised.

Division 3 Powers of entry and search of premises

24 Power to enter premises

- (1) An inspector or police officer may enter any premises at any time for the purposes referred to in section 18.
- (2) Entry may be effected under this Act by an inspector with the aid of such other inspectors or police officers as the inspector considers necessary and with the use of reasonable force.

25 Entry into residential premises only with permission or warrant

This Division does not empower an inspector or police officer to enter any part of premises used only for residential purposes without the permission of the occupier or the authority of a search warrant under section 27.

26 Powers to inspect and seize things

- (1) An inspector or police officer may, on any premises lawfully entered, do anything that in the opinion of the inspector or officer is necessary to be done for the purposes of this Part, including (but not limited to) the things specified in subsection (2).
- (2) An inspector or police officer may do any or all of the following:
 - (a) examine and inspect any part of the premises or any article or thing on the premises,
 - (b) make such examinations and inquiries as the inspector or officer considers necessary,
 - (c) require records to be produced for inspection,
 - (d) examine and inspect any records,
 - (e) copy any records,
 - (f) seize anything that the inspector or officer has reasonable grounds for believing is connected with an offence under the gaming and liquor legislation,
 - (g) do any other thing the inspector or officer is empowered to do under this Part.
- (3) The power to seize anything connected with an offence includes a power to seize:
 - (a) a thing with respect to which the offence has been committed, and
 - (b) a thing that will afford evidence of the commission of the offence, and
 - (c) a thing that was used for the purpose of committing the offence.

A reference to any such offence includes a reference to an offence that there are reasonable grounds for believing has been committed.

27 Search warrants

- (1) An inspector or police officer may apply to an authorised officer for the issue of a search warrant if the inspector or police officer believes on reasonable grounds that:
 - (a) a provision of the gaming and liquor legislation is being or has been contravened at any premises, or
 - (b) there is in or on any premises matter or a thing that is connected with an offence under the gaming and liquor legislation.
- (2) An authorised officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector or police officer named in the warrant:

- (a) to enter the premises, and
 - (b) to exercise any function of an inspector under this Division.
- (3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (4) In this section:
- authorised officer** has the same meaning as in the *Law Enforcement (Powers and Responsibilities) Act 2002*.
- matter or a thing** connected with an offence means:
- (a) matter or a thing with respect to which the offence has been committed, or
 - (b) matter or a thing that will afford evidence of the commission of an offence, or
 - (c) matter or a thing that was used, or is intended to be used, for the purpose of committing the offence.
- offence** includes an offence that there are reasonable grounds for believing has been, or is to be, committed.

28 Assistance to be given to inspectors

- (1) This section applies for the purpose of enabling an inspector to exercise any of the powers of an inspector under this Division in connection with any premises.
- (2) The Authority may, by notice in writing given to the owner or occupier of the premises, require the owner or occupier to provide such reasonable assistance and facilities as are specified in the notice within a specified time and in a specified manner.
- (3) Assistance and facilities can be required under this section, whether they are of the same kind as, or a different kind from, any prescribed by the regulations.

29 Dealing with seized things

- (1) If an inspector or police officer seizes anything under section 26 on any premises, the inspector or officer must issue the person apparently in charge of the premises with a written receipt for the thing seized.
- (2) An inspector or police officer may retain anything seized under section 26 until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.
- (3) A record may only be retained under subsection (2) if the person from whom the record was seized is provided, within a reasonable time after the seizure, with a copy of the record certified by the inspector or police

officer as a true copy. The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.

- (4) Subsection (2) ceases to have effect in relation to anything seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are commenced so orders.

Division 4 Power to question persons

30 Power of inspectors to require answers

- (1) An inspector may require a person whom the inspector suspects on reasonable grounds to have knowledge of matters in respect of which information reasonably required for the purposes of the gaming and liquor legislation to answer questions in relation to those matters.
- (2) The Authority may, by notice in writing, require a corporation to nominate, in writing within the time specified in the notice, a director or officer of the corporation to be the corporation's representative for the purpose of answering questions under this section.
- (3) Answers given by a person nominated under subsection (2) bind the corporation.

31 Power of inspectors to demand name and address

- (1) An inspector may require a person whom the inspector suspects on reasonable grounds to have offended or to be offending against the gaming and liquor legislation to state his or her full name and residential address.
- (2) An inspector may request a person who is required under this section to state his or her full name and residential address to provide proof of the name and address. It is not an offence under section 34 to fail to comply with any such request.

Division 5 Additional functions of inspectors relating to casino

32 Additional functions

Without limiting the functions of an inspector under this Part or any of the other provisions of the gaming and liquor legislation, inspectors have the following functions:

- (a) to supervise operations in a casino and to inspect the gaming equipment used in a casino,
- (b) to supervise the handling and counting of money in a casino,

- (c) to direct a person to cease having available for use any gaming equipment considered by the inspector to be unsatisfactory for use,
- (d) to assist in any other manner, where necessary, in the detection of offences committed against the *Casino Control Act 1992* in a casino,
- (e) to receive and investigate complaints, in accordance with section 33, from casino patrons relating to the conduct of gaming in a casino,
- (f) to report to the Authority regarding operations in a casino.

33 Inspectors to investigate casino-related complaints

- (1) On receiving a complaint from a patron relating to the conduct of gaming in a casino, an inspector must investigate the complaint with due diligence.
- (2) The inspector must inform the casino operator of the substance of the complaint and give the operator a reasonable opportunity to make a response to it.
- (3) If, as a result of the investigation, the inspector is satisfied that:
 - (a) the conduct of any game in a casino has contravened any condition of the casino licence, any game rules or any direction given by the Authority under the *Casino Control Act 1992*, or
 - (b) there has been any other contravention of a provision of the gaming and liquor legislation,the inspector is to report the matter to the Authority in writing.
- (4) The inspector must give or send a copy of his or her report to the casino operator and must inform the complainant of the results of the investigation of the complaint and of any action taken or to be taken as a consequence of it.

Division 6 General

34 Offences under this Part

- (1) A person must not, without lawful excuse, refuse or fail to comply with a requirement made of the person under this Part.
- (2) A person must not furnish any information or do any other thing in purported compliance with a requirement made under this Part, knowing that it is false or misleading in a material respect.

- (3) A person must not wilfully:
- (a) obstruct, delay, hinder, assault, threaten, insult or intimidate an inspector or police officer in the exercise of the inspector's or officer's powers under this Part, or
 - (b) refuse to allow an inspector or officer to enter any premises the inspector or officer may lawfully enter under this Part.
- (4) A person must not impersonate an inspector.
Maximum penalty: 100 penalty units.

35 Provisions relating to requirements to furnish records, information or answer questions

(1) **Warning to be given on each occasion**

A person is not guilty of an offence of failing to comply with a requirement under this Part to furnish records or information or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.

(2) **Self-incrimination not an excuse**

A person is not excused from a requirement under this Part to furnish records or information or to answer a question on the ground that the record, information or answer might incriminate the person or make the person liable to a penalty.

(3) **Information or answer not admissible if objection made**

However, any information furnished or answer given by a natural person in compliance with a requirement under this Part is not admissible in evidence against the person in criminal proceedings (except proceedings for an offence under this Part) if:

- (a) the person objected at the time to doing so on the ground that it might incriminate the person, or
- (b) the person was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.

(4) **Records admissible**

Any record furnished by a person in compliance with a requirement under this Part is not inadmissible in evidence against the person in criminal proceedings on the ground that the record might incriminate the person.

(5) **Further information**

Further information obtained as a result of a record or information furnished or of an answer given in compliance with a requirement under this Part is not inadmissible on the ground:

- (a) that the record or information had to be furnished or the answer had to be given, or
- (b) that the record or information furnished or answer given might incriminate the person.

(6) **Requirement to state name and address**

This section extends to a requirement under this Part to state a person's name and address.

Part 5 Miscellaneous

36 False or misleading statements

- (1) A person must not, in any official document, make a statement that the person knows, or could reasonably be expected to know:
- (a) is false or misleading in a material respect, or
 - (b) omits material matter.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) In this section:

official document means any application, instrument or other document that is, for the purposes of the gaming and liquor legislation, given to or lodged with the Minister, the Authority, the Director or the relevant Division Head.

37 Protection from personal liability

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

- (a) a member of the Authority, or
- (b) the Director, or
- (c) a member of staff, or
- (d) a consultant to the Authority, or
- (e) a police officer,

in exercising functions conferred or imposed on the person by or under the gaming and liquor legislation, or in the course of the administration of that legislation, 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.

38 Delegation by Division Head

The relevant Division Head may delegate to any member of staff any of the Division Head's functions under this Act (other than this power of delegation).

39 Annual report

A report under the *Annual Reports (Departments) Act 1985* in respect of the Department of the Arts, Sport and Recreation may include any annual report required to be made in respect of the Authority under the *Annual Reports (Statutory Bodies) Act 1984*.

40 Recovery of money due to Authority

- (1) Any money due to the Authority under the gaming and liquor legislation (including any monetary penalty imposed by the Authority or any costs it orders to be paid) may be recovered by the Authority as a debt in a court of competent jurisdiction.
- (2) This section does not limit the operation of section 23 of the *Casino Control Act 1992*.

41 Seal of Authority

The seal of the Authority is to be kept by the Chief Executive and may be affixed to a document only:

- (a) in the presence of the Chief Executive or a member of the staff of the Authority authorised in that behalf by the Chief Executive, and
- (b) with an attestation by the signature of the Chief Executive or that member of staff of the fact of the affixing of the seal.

42 Service of documents on Authority

- (1) A document may be served on the Authority by sending it by post to an office of the Authority or leaving it at the office with a person authorised in writing by the Authority to accept service of documents on behalf of the Authority.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Authority in any other manner.

43 Service of notices

- (1) Any notice or other instrument required or authorised by or under the gaming and liquor legislation to be served on or given to a person may be served or given:
 - (a) in the case of an individual:
 - (i) by delivering it personally to the individual, or
 - (ii) by posting it, addressed to the individual at the individual's residential address, business address or address for service of notices, or
 - (iii) by leaving it with a person apparently aged 16 years or more at the individual's residential address or business address, or
 - (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the individual at the individual's address for service of electronic

communications or facsimile transmissions, in accordance with the individual's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions, or

- (b) in the case of a corporation:
- (i) by delivering it personally to a person concerned in the corporation's management, or
 - (ii) by posting it, addressed to the corporation at the corporation's business address or address for service of notices, or
 - (iii) by leaving it with a person apparently aged 16 years or more at the corporation's business address, or
 - (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the corporation at the corporation's address for service of electronic communications or facsimile transmissions, in accordance with the corporation's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions.
- (2) A reference in this section to a person's address of any particular kind includes a reference to the address of that kind:
- (a) as last known to the Authority, or
 - (b) as nominated by the person and provided to the Authority.
- (3) In this section, *business address* in relation to a person includes the address of any licensed premises of which the person is the licensee.

44 Offences by corporations

- (1) If a corporation contravenes any provision of this Act, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act.

45 Proceedings for offences

Proceedings for an offence under this Act or the regulations are to be disposed of summarily before the Local Court.

46 Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under this Act, being an offence prescribed by the regulations.
- (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 an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) 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.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) 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.
- (9) In this section:
authorised officer means a police officer or an inspector.

47 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) The regulations may create offences punishable by a penalty not exceeding 100 penalty units.

48 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

49 Savings, transitional and other provisions

Schedule 2 has effect.

50 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 Provisions relating to the members and procedure of the Authority

(Section 7 (5))

Part 1 Members

1 Definition

In this Schedule:

appointed member means a member of the Authority other than the Chief Executive.

2 Appointed member may be appointed as a full-time or part-time member

- (1) The appointment of an appointed member may be on a full-time or part-time basis.
- (2) A full-time appointed member must devote the whole of his or her time to the duties of the office of a full-time member of the Authority.

3 Term of office

- (1) Subject to this Schedule, an appointed member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment.
- (2) The periods for which appointed members are appointed must be such that at any time at least 2 of the appointed members have no more than 3 years of a term of office remaining.
- (3) An appointed member is eligible to be reappointed.

4 Remuneration

- (1) A full-time appointed member is (subject to subclause (2)) entitled to be paid remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975* and such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.
- (2) A full-time appointed member who is a Judge is not, while receiving salary or allowance as a Judge, entitled to remuneration under this Act.
- (3) A part-time appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Appointment of Judge as member not to affect tenure etc

- (1) The appointment of a person who is the holder of a judicial office as a member or deputy member, or service by a person who is the holder of a judicial office as a member or deputy member, does not affect the person's tenure of that judicial office or the person's rank, title, status, precedence, salary, allowances or other rights or privileges as the holder of that judicial office.
- (2) For all purposes, the person's service as a member or deputy member is to be taken to be service as the holder of that judicial office.
- (3) In this clause, *judicial office* means an office of Judge.

6 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed member, and the Minister may revoke any such appointment.
- (2) Section 14 applies to the position of deputy of a member.
- (3) In the absence of an appointed member, the member's deputy:
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is to be regarded as a member.
- (4) A person appointed as the deputy of an appointed member may perform such other functions as the Minister may determine.
- (5) The deputy of an appointed member who is also Chairperson or Deputy Chairperson does not have the member's functions as Chairperson or Deputy Chairperson.
- (6) A person while acting in the place of an appointed member, or while performing any function under subclause (4), is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (7) A person may, but need not, be appointed to the position of deputy of a member for a period specified in the person's instrument of appointment.
- (8) The position of deputy of a member becomes vacant if the deputy:
 - (a) dies, or
 - (b) if appointed for a period, completes a term in the position and is not reappointed, or
 - (c) resigns the position by instrument in writing addressed to the Minister, or

- (d) is removed from the position by revocation of the appointment under this clause, or
- (e) 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
- (f) becomes a mentally incapacitated person, or
- (g) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

7 Vacancy in office of appointed member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not reappointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under this clause or under Chapter 5 of the *Public Sector Employment and Management Act 2002*, or
 - (e) in the case of a part-time appointed member, is absent from 4 consecutive meetings of the Authority of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Authority or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Authority for having been absent from those meetings, or
 - (f) 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
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove an appointed member from office at any time.

8 Filling of vacancy in office of appointed member

If the office of an appointed member becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

9 Vacation of office by Chairperson

- (1) The office of Chairperson becomes vacant if the Chairperson:
 - (a) resigns the office by instrument in writing addressed to the Minister, or
 - (b) is removed from that office by the Governor under this clause, or
 - (c) ceases to be an appointed member.
- (2) The Governor may remove the Chairperson from office at any time.

10 Disclosure of pecuniary interests

- (1) A member of the Authority:
 - (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Authority, and
 - (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.
- (2) A disclosure by a member of the Authority at a meeting of the Authority that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.
- (3) Particulars of any disclosure made under this clause must be recorded by the members of the Authority in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the Authority.

- (4) After a member of the Authority has disclosed the nature of an interest in any matter, the member must not, unless the other members of the Authority otherwise determine:
 - (a) be present during any deliberation of the Authority with respect to the matter, or
 - (b) take part in any decision of the Authority with respect to the matter.
- (5) For the purposes of the making of a determination by the members of the Authority under subclause (4), a member of the Authority who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the other members of the Authority for the purpose of making the determination, or
 - (b) take part in the making by the other members of the Authority of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Authority.
- (7) A reference in this clause to a meeting of the Authority includes a reference to a meeting of a committee of the Authority.

11 Effect of certain other Acts

- (1) The *Public Sector Employment and Management Act 2002* does not apply to the appointment of an appointed member and an appointed member is not, as such a member, subject to that Act (except Chapter 5).
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as an appointed member.
- (3) The office of a part-time appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

12 Proof of certain matters not required

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Authority, or

-
- (b) any resolution of the Authority, or
 - (c) the appointment of, or holding of office by, any member of the Authority, or
 - (d) the presence or nature of a quorum at any meeting of the Authority.

Part 2 Procedure

13 General procedure

The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Authority.

14 Quorum

The quorum for a meeting of the Authority is a majority of its members.

15 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, is to preside at a meeting of the Authority.
- (2) In the absence of both the Chairperson and the Deputy Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Authority.
- (3) The person presiding at any meeting of the Authority has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

16 Voting

A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present is the decision of the Authority.

17 Transaction of business outside meetings or by telephone etc

- (1) The Authority may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Authority for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Authority.
- (2) The Authority may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

- (3) For the purpose of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Authority.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Authority.
- (5) Papers may be circulated among members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.

18 Minutes

The Authority must cause full and accurate minutes to be kept of the proceedings of each meeting of the Authority.

19 First meeting

The Minister may call the first meeting of the Authority in such manner as the Minister thinks fit.

Schedule 2 Savings, transitional and other provisions

(Section 49)

Part 1 Preliminary

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (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 Continuation of appointment of Chief Executive of CCA

- (1) The person holding office as Chief Executive of the Casino Control Authority under section 137 of the *Casino Control Act 1992* immediately before the repeal of that section by the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007* is, on the commencement of section 7 of this Act, taken to have been appointed as the Chief Executive of the Casino, Liquor and Gaming Control Authority for the remainder of the term for which the person was appointed to the previous office.
- (2) Section 14 of this Act does not apply in relation to the appointment that is taken to have been made under subclause (1).

3 Inspectors

Any person who held office as:

- (a) a special inspector under section 109 of the *Liquor Act 1982* immediately before the repeal of that section by the *Liquor Act 2007*, or
- (b) an inspector under section 106 of the *Casino Control Act 1992* immediately before the repeal of that section by the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*,

is taken to have been appointed by the relevant Division Head as an inspector under section 20 of this Act.