

Gaming and Liquor Administration Act 2007 No 91

[2007-91]



New South Wales

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Gaming and Liquor Administration Act 2007 No 91



New South Wales

An Act to constitute the Independent Liquor and Gaming 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.

Part 1 Preliminary

1 Name of Act

This Act is the *Gaming and Liquor Administration Act 2007*.

2 Commencement

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

2A Objects of Act

The objects of this Act are as follows—

- (a) to ensure the probity of public officials who are engaged in the administration of the gaming and liquor legislation,
- (b) to ensure that the Authority and NICC are accessible and responsive to the needs of all persons and bodies who deal with the Authority,
- (c) to promote fair and transparent decision-making under the gaming and liquor legislation,
- (d) to require matters under the gaming and liquor legislation to be dealt with and decided in an informal and expeditious manner,
- (e) to promote public confidence in—
 - (i) the Authority's decision-making and in the conduct of its members and staff, and
 - (ii) the NICC's decision-making and in the conduct of its Commissioners and staff.

3 Definitions

(1) In this Act—

Authority means the Independent Liquor and Gaming Authority constituted under this Act.

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

close associate—see section 5.

controlled contract means a contract within the meaning of section 36 of the [Casino Control Act 1992](#).

controlled purchasing operation—see section 33A.

Department means the Department of Enterprise, Investment and Trade.

designated Public Service employee means a Public Service employee who is designated by the Secretary and who is employed to enable the Authority to exercise its functions.

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 person appointed under section 20.

key official means any of the following—

- (a) a member of the Authority,
- (a1) a member of the NICC,
- (b) the General Counsel of the Authority,
- (c) the Secretary,
- (d) a designated Public Service employee who is the subject of a written order by the Secretary (or an order by the Authority in force immediately before the substitution of this paragraph by the [Gaming and Liquor Administration Amendment Act 2015](#)) that has been served on the employee and is to the effect that the employee is a key official for the purposes of the gaming and liquor legislation,

- (d1) a Public Service employee (other than a designated Public Service employee) engaged in the administration of the gaming and liquor legislation who is the subject of a current written order by the Secretary that has been served on the employee and is to the effect that the employee is a key official for the purposes of the gaming and liquor legislation,
- (d2) a member of the staff of the NICC,
- (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,
- (e1) a consultant to the NICC,
- (f) the Commissioner of Police or a police officer who holds the position of Police Area Commander or Police District 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 the Authority means any person appointed under section 7.

NCAT means the Civil and Administrative Tribunal of New South Wales.

NICC means the New South Wales Independent Casino Commission established under the [Casino Control Act 1992](#).

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](#).

Secretary means the Secretary of the Department.

Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

(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 or specified parts of Acts and the regulations and other instruments made under those Acts or parts—

- (a) this Act,
- (b) *Casino Control Act 1992*,
- (c) *Gaming Machines Act 2001*,
- (d) *Liquor Act 2007*,
- (e) *Registered Clubs Act 1976*,
- (f) *Gaming Machine Tax Act 2001* (Part 4 and Schedule 1).

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.
- (5) This section does not apply to the [Casino Control Act 1992](#) and the regulations made under that Act.

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 Independent Liquor and Gaming Authority.
- (2) The Authority is a NSW Government agency.
- (3) The Authority is, in the exercise of its functions, subject to the control and direction of the Minister, except in relation to the following—
 - (a) the contents of any advice, report or recommendation given to the Minister,
 - (b) decisions in relation to—
 - (i) the granting, suspension or cancellation of a gaming or liquor licence, or
 - (ii) the imposition, variation or revocation of conditions of a gaming or liquor licence, or
 - (iii) the taking of disciplinary action under the gaming and liquor legislation.
- (4) (Repealed)

7 Members of Authority

- (1) The Authority consists of—
 - (a) the following members appointed by the Governor on the recommendation of the Minister—
 - (i) a Chairperson,
 - (ii) a Deputy Chairperson,
 - (iii) other members, and
 - (b) any assistant members appointed by the Minister under section 8A.
- (2) The persons recommended by the Minister for appointment as members under subsection (1)(a) must be chosen from the recommended members list.
- (3) Schedule 1 has effect in relation to the members and procedures of the Authority.

8 Selection panel for appointment of members

- (1) When a vacancy in the office of a member of the Authority occurs, the Minister must establish a selection panel to prepare and give the Minister a list (a **recommended members list**) that includes—
 - (a) persons recommended for appointment to the vacant office, and
 - (b) recommendations about the terms of office for persons included on the recommended members list.
- (2) The selection panel must ensure the number of persons included in the recommended members list given to the Minister is more than the number of persons required to fill the vacancy.
- (3) The selection panel must not include a person in the recommended members list unless—
 - (a) for at least one member—the person is—
 - (i) a Judge or former Judge, or
 - (ii) a lawyer of at least 7 years' standing with experience in administrative law, or
 - (b) for persons recommended for appointment as other members—the person has expertise or experience in—
 - (i) regulation of financial crime, or
 - (ii) law enforcement relating to financial crime, or

(iii) accounting or corporate governance.

8A Appointment of assistant members

- (1) The Minister may, by written instrument, appoint additional temporary members (***assistant members***) to the Authority.
- (2) The functions of an assistant member are any or all of the following, as stated in the assistant member's instrument of appointment—
 - (a) to assist the Authority in the exercise of its functions generally,
 - (b) to assist a specific investigation or inquiry,
 - (c) to exercise any other functions under this Act.

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 may employ staff to assist the Authority to exercise its functions.
- (3) The Authority may, without limiting subsection (2)—
 - (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 or facilities of a Public Service agency 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 following persons (each a ***relevant person***) may enter into an arrangement with the Commissioner of Police for the supply to the relevant person of information

contained in the records of the NSW Police Force to assist in the effectual administration of gaming and liquor legislation—

- (a) the Secretary,
- (b) the Authority.

(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.
- (2) The Authority cannot, however, delegate its functions under—
 - (a) section 36A in respect of a review of a delegated decision, or
 - (b) 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 the Authority, or
 - (a1) a designated Public Service employee or other Public Service employee, or
- (b) a committee of the Authority, or
- (c) a person of a class prescribed by the regulations.

13A Review by NCAT of certain decisions of Authority

- (1) A relevant person who is aggrieved by a decision of the Authority in relation to an application made under a provision of the gaming and liquor legislation prescribed by the regulations for the purposes of this section (a **prescribed application**) may apply to NCAT for an administrative review under the [Administrative Decisions Review Act 1997](#) of that decision.
- (2) (Repealed)
- (3) An application for administrative review made under subsection (1) must—
 - (a) be made within 28 days of notice of the decision being published on the website of the Department, and

(b) be accompanied by the fee prescribed by the regulations.

Note—

Section 36C requires notice of the decision to be published on the Department's website.

(4) Subsection (1) does not apply in relation to a decision of the Authority that confirms, varies or revokes a decision made by a designated Public Service employee or other Public Service employee acting under a delegation given by the Authority.

(5) In this section, **relevant person** in relation to a prescribed application means—

(a) the applicant, or

(b) a person—

(i) who was required to be notified of the prescribed application, and

(ii) who made a submission to the Authority or the Secretary in respect of the prescribed application.

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,

(a1) Commissioner of the NICC,

(b) designated Public Service employee nominated by the Secretary in writing (or designated by the Authority in writing before the substitution of this paragraph by the [Gaming and Liquor Administration Amendment Act 2015](#)) for the purposes of this section,

(b1) inspector,

(b2) (Repealed)

(c) consultant to the Authority designated by the Authority in writing for the purposes of this section,

(d) consultant to the NICC designated by the NICC 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 a Commissioner of the NICC, or
 - (b) the Authority—in the case of the position of consultant to the Authority, or
 - (b1) the NICC—for the position of consultant to the NICC, or
 - (c) the Secretary—in the case of the position of designated Public Service employee or inspector.
 - (d) (Repealed)
- (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 and the Secretary must comply with such guidelines as the Authority or the Secretary (as the case requires) 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 consultant to the Authority, the Authority may waive the operation of subsection (10) in a particular case.
- (12A) For a position of consultant to the NICC, the NICC may waive the operation of subsection (10) in a particular case.
- (13) In the case of the position of designated Public Service employee or inspector, the Secretary 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 without the approval of the appropriate

authority carry out any of the following activities—

- (a) hold any type of gaming or liquor licence,
- (b) hold office as a member of the governing body of a registered club,
- (c) solicit employment, in any capacity, from a gaming or liquor licensee, a person known by the official to be a close associate of such a licensee or from a gaming or liquor industry peak body,
- (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
 - (iv) a gaming or liquor industry peak body,
- (e) 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,
- (f) be a close associate of a person known by the official to be an applicant for, or the holder of, a gaming or liquor licence.

Maximum penalty—50 penalty units.

- (2) A gaming or liquor licensee or a close associate of such a licensee must not without the approval of the appropriate authority carry out any of the following activities—
 - (a) employ, in any capacity, a person known by the licensee or close associate to be a key official or former key official,
 - (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 a key official or former key official.

Maximum penalty—50 penalty units.

- (2A) A key official, former key official, gaming or liquor licensee or close associate may apply in writing to the appropriate authority for an approval under this section.
- (2B) The appropriate authority may grant an approval under this section if the appropriate authority is satisfied that the carrying out of the activity does not involve, or is unlikely to involve, any undue risk that is inconsistent with the objects of this Act.

- (2C) The regulations may make provision for and with respect to the criteria to be used by the appropriate authority in determining whether to grant an approval under this section.
- (3) Approvals granted by the appropriate authority under this section are to be recorded and available for public inspection.
- (3A) The Minister may, by order in writing published in the Gazette, determine that an association, organisation or other body representing the interests of gaming or liquor licensees is a gaming or liquor industry peak body for the purposes of this section.
- (4) In this section—

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

- (a) in the case of a designated Public Service employee or other Public Service employee, or former designated Public Service employee or other former Public Service employee—the Secretary, or
- (a1) for a member of staff of the NICC—the NICC, or
- (b) in the case of a consultant to the Authority or former consultant to the Authority—the Authority, or
- (b1) for a consultant to the NICC or former consultant to the NICC—the NICC, 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) a person who was a key official (other than a person referred to in paragraph (b) or (c)) at any time during the previous 2 years but who is no longer a key official, or
- (b) a person who was engaged in the administration of the gaming and liquor legislation and was a designated Public Service employee other than a Public Service senior executive at any time during the previous 6 months but who is no longer a key official, or
- (c) a person who was at any time General Counsel of the Authority but who is no longer a key official.

gaming or liquor industry peak body means an association, organisation or other body determined to be a gaming or liquor industry peak body by order under subsection (3A).

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—
 - (a1) to the community at large if the Authority, NICC or Secretary certifies it is in the public interest the information be divulged to the community at large; or
 - (a) to a particular person or body (or to a particular class of persons or bodies) if the Authority, NICC or the Secretary certifies that it is necessary in the public interest that the information be divulged to the person or body or class of persons or bodies, 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 or NICC 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,
 - (b1) the Law Enforcement Conduct Commission,
 - (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 [Government Information \(Public Access\) Act 2009](#), 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 Secretary may appoint a Public Service employee to be an inspector for the purposes of the gaming and liquor legislation.
- (2) The Secretary is taken to have been appointed as an inspector.
- (3) The Secretary is to cause each inspector to be issued with a means of identification in the form approved by the Secretary.
- (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.

20A Appointment of persons to carry out controlled purchasing operations

The Secretary may appoint a person who is under the age of 18 years to carry out controlled purchasing operations.

Division 2 Powers to require information or records

21 Requirement to provide information and records

- (1) The Authority, NICC or an inspector or police officer may, by notice in writing given to a person, require the person to furnish to the Authority, NICC, inspector or police officer such information or records (or both) as the Authority, NICC, inspector or officer requires by the notice in connection with any matter arising under or in connection with the gaming and liquor legislation.
- (1A) A marine authority may, by oral or written notice given to a relevant person on board licensed premises that are a vessel, require the relevant person to give the information specified by the notice that is required for the purposes of giving a notice under the *Liquor Act 2007*, section 75(1)(c).
- (2) A notice under subsection (1) or (1A) 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.
- (3) In this section—

marine authority has the same meaning as in the *Liquor Act 2007*.

relevant person has the same meaning as in the *Liquor Act 2007*, section 75.

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,

- (b1) photograph, film or video a part of the premises or an article or thing on the premises,
 - (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.

- (4) The power to seize anything connected with an offence does not include a power to seize a mobile phone or other electronic device in connection with an offence arising from the use of the mobile phone or other electronic device to display any of the following—
- (a) a digital driver licence within the meaning of the *Road Transport Act 2013*,
 - (b) a digital Photo Card within the meaning of Part 2A of the *Photo Card Act 2005*,
 - (c) any other digital evidence of age document prescribed by the regulations.
- (5) Subsection (4) does not limit any authority to seize a mobile phone or other electronic device conferred by any other law.

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 or NICC 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 and police officers to require answers

- (1) An inspector or police officer may require a person whom the inspector or police officer suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for the purposes of the gaming and liquor legislation to answer questions in relation to those matters.
- (2) The Authority or NICC 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.
- (4) An inspector or police officer may, by notice given to a person, require the person to attend at a specified place and time to answer questions under this section if attendance at the place is reasonably required for the questions to be properly asked and answered.
- (5) The inspector or police officer may, in the notice under subsection (4) or in a subsequent notice, authorise the person to answer the questions using an audio link or audio visual link of a kind approved by the inspector or police officer.
- (6) If the questions are to be answered by the person using an audio link or audio visual link—
 - (a) the place at which the person is required to attend is taken to be any place having adequate facilities for the answering of questions in that way at the time specified in the notice under subsection (4), and
 - (b) the person must ensure the audio link or audio visual link is operated appropriately so the answers given to the questions are clear to the inspector or police officer.

31 Power of inspectors and police officers to demand name and address

- (1) An inspector or police officer may require a person whom the inspector or police officer 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 or police officer 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 detect, or assist in detecting, offences committed 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 NICC 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 NICC 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 NICC 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 5A Functions of persons appointed to carry out controlled purchasing operations

33A Additional functions

- (1) Without limiting the functions of an inspector under this Part or other provisions of the gaming and liquor legislation, inspectors and persons appointed under section 20A have the function of carrying out operations (***controlled purchasing operations***) for the purpose of investigating whether a same day delivery provider, or an employee or agent of a provider, is contravening the following provisions of the *Liquor Act 2007*—
 - (a) Part 6, Division 1B,
 - (b) sections 114 and 117.
- (2) For the purposes of carrying out a controlled purchasing operation, a person appointed under section 20A who is under the age of 18 years—
 - (a) may, under the supervision of an inspector, purchase or attempt to purchase liquor as part of a same day delivery, and
 - (b) is not liable for an offence under the *Liquor Act 2007* or any other Act or law for a purchase, or attempted purchase, carried out in accordance with this section.
- (3) In this section—

same day delivery provider has the same meaning as in section 114G of the *Liquor Act 2007*.

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.

34A Directions to licensee and staff of licensed premises

(1) The Secretary may give a gaming and liquor licensee, or an employee or agent of a gaming and liquor licensee, a written direction about any matter relating to the licensed premises.

(2) Without limiting subsection (1), a direction may be given about—

(a) conduct on the licensed premises, or

(b) the supervision or control of the licensed premises.

(3) The direction takes effect on the later of the following—

(a) when the direction is given to the licensee or employee or agent,

(b) the date specified in the direction.

(4) A licensee, employee or agent to whom a direction is given under this section must not, without reasonable excuse, fail to comply with the direction.

Maximum penalty—100 penalty units.

(5) Without limiting subsection (1), a direction under this section may require a person to adopt, cease or vary, or refrain from, a practice on or in relation to licensed premises.

(6) The Secretary may revoke or vary a direction given by the Secretary under this section.

(7) A direction given to a licensee, or an employee or agent of a licensee, under this section must not be inconsistent with—

(a) gaming and liquor legislation, or

(b) the authorisation given by the licensee's licence.

(8) In this section—

employee or agent includes—

(a) an employee within the meaning of the [Liquor Act 2007](#), and

(b) the secretary of a registered club, and

(c) a member of the governing body of a registered club.

licensed premises means premises to which a gaming or liquor licence relates.

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 4A Casino, Liquor and Gaming Coordination Committee

35A Establishment of Committee

The Casino, Liquor and Gaming Coordination Committee is established.

35B Membership of Committee

- (1) The Casino, Liquor and Gaming Coordination Committee consists of the following members—
 - (a) the Chief Executive Officer of Hospitality and Racing,
 - (b) the Chief Commissioner of the NSW Independent Casino Commission under the *Casino Control Act 1992*,
 - (c) the Chairperson of the Authority,
 - (d) the NSW Police Commissioner or a person nominated by the Police Commissioner,
 - (e) the NSW Crime Commissioner or a person nominated by the Crime Commissioner,
 - (f) the Director of the Office of Responsible Gambling or a person nominated by the Director,
 - (g) persons nominated by law enforcement agencies.
- (2) The member of the Casino, Liquor and Gaming Coordination Committee mentioned in subsection (1)(a) is the chairperson of the Committee.
- (3) In this section—

law enforcement agency means an agency that is—

 - (a) a law enforcement agency within the meaning of the *Casino Control Act 1992*, section 149(7), and
 - (b) invited by the chairperson of the Casino, Liquor and Gaming Coordination Committee to nominate members of the Committee.

35C Functions of Committee

The functions of the Committee are—

- (a) to provide strategic advice to the NSW Independent Casino Commission and the Authority, and
- (b) to ensure the effective exercise of functions and powers by regulators and law enforcement agencies in regulating the casino, liquor and gaming industries, and
- (c) to facilitate the efficient sharing of information and collaboration between regulators, law enforcement agencies and the Department.

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, NICC or the Secretary.

36A Review by Authority of certain decisions

(1) In this section—

reviewable decision means—

(a) any of the following decisions of the Secretary under the *Liquor Act 2007*—

- (i) a decision under section 54 to impose a condition on a licence or to vary or revoke any such condition,
- (ii) a decision under section 54A to give a direction relating to the operation of a “sale on other premises” authorisation,
- (iii) a decision under section 75 to issue an improvement notice relating to licensed premises,
- (iv) a decision under section 81 in relation to a disturbance complaint,
- (v) a decision under section 87 to make a late hour entry declaration,
- (vi) a decision under section 90 to vary or revoke a late hour entry declaration,
- (vii) a decision under section 101 to restrict or prohibit the sale or supply of undesirable liquor products,
- (viiia) a decision under section 102A to restrict or prohibit activities that encourage misuse or abuse of liquor,
- (viii) a decision under section 102 to restrict or prohibit the undesirable promotion of liquor,

- (viii) a decision of the Secretary under section 116B(4) to designate licensed premises as a high risk venue,
 - (ix) a decision under section 136 to give a direction to contribute to the costs of promoting or giving effect to a local liquor accord,
 - (ixa) a decision under section 136E to impose a condition on a licence requiring a licensee to participate in a precinct or community event liquor accord,
 - (x) a decision under section 136F to give a direction to contribute to the costs associated with the operation of a precinct liquor accord, or
- (b) a decision of the Secretary to give a direction under section 44A (Location of gaming machines in venues) of the *Gaming Machines Act 2001*, or
 - (c) a decision of the Secretary to give a direction to a registered club under the Registered Clubs Accountability Code within the meaning of the *Registered Clubs Act 1976*, or
 - (c1) a decision under section 34A to give a gaming and liquor licensee, or an employee or agent of a gaming and liquor licensee, a written direction,
 - (d) a decision of a designated Public Service employee, or other Public Service employee, acting under a delegation given by the Authority in respect of an application made under a provision of the gaming and liquor legislation prescribed by the regulations for the purposes of this section (**delegated decision**).
- (2) Subject to subsection (2A), any person who is aggrieved by a reviewable decision may, in accordance with the regulations and on payment of such fee as may be prescribed by the regulations, apply in writing to the Authority for a review of the decision.
- (2A) An application for a review of a delegated decision may only be made by—
- (a) an applicant for, or the holder of, a gaming or liquor licence, or
 - (b) a person—
 - (i) who was required to be notified of the application the subject of the delegated decision, and
 - (ii) who made a submission to the Authority or the Secretary in respect of that application.
- (3) An application for such a review does not operate to stay the reviewable decision unless the Authority otherwise directs.
- (4) In determining an application for review under this section, the Authority may—

- (a) confirm the decision the subject of the application, or
- (b) vary the decision, or
- (c) revoke the decision.

- (5) However, in the case of a review of a decision of the Secretary under section 136F of the *Liquor Act 2007*, the Authority may vary or revoke the Secretary's decision only if the Authority is satisfied that the amount of the contribution directed to be paid was not determined in accordance with the terms of the relevant precinct liquor accord (within the meaning of that Act).
- (6) The Secretary is to give effect to any decision of the Authority under this section to vary or revoke the decision the subject of the application for review.
- (7) The Authority may not make any decision in relation to an application for review under this section unless a member of the Authority who is or has been a Judge, or has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority or the committee of the Authority at which the decision of the Authority is made.

36B Procedure for dealing with matters under gaming and liquor legislation to be informal

- (1) A formal hearing involving the legal representation of parties is not required to be held in relation to any application or other matter (including the taking of any disciplinary action) that may be dealt with or decided by the Authority, NICC or the Secretary under the gaming and liquor legislation.
- (2) However, subsection (1) does not prevent the Authority, NICC or the Secretary, in such cases as the Authority, NICC or the Secretary considers appropriate—
 - (a) from conducting an interview or convening a conference or meeting, or
 - (b) from receiving submissions,in relation to any application or other matter that may be dealt with or decided by the Authority, NICC or the Secretary under the gaming and liquor legislation.
- (3) Any such conference or meeting is to be presided over by the Authority, NICC or the Secretary, as the case requires, and the procedure at the conference or meeting is to be determined by the Authority, NICC or the Secretary, as the case requires.
- (4) This section is subject to any other provision of the gaming and liquor legislation.

36C Notice of certain decisions required to be published on relevant website

- (1) This section applies to—
 - (a) any decision by the Authority, NICC or the Secretary under the gaming and liquor

legislation prescribed by the regulations for the purposes of this section, and

- (b) any decision by the Authority in relation to an application made under a provision of the gaming and liquor legislation prescribed by the regulations for the purposes of section 13A.
- (2) As soon as practicable after a decision to which this section applies is made, notice of the decision is to be published on the website of the Department.
- (3) The notice is to include—
- (a) a statement of the reasons for the decision, and
 - (b) details of any penalty or sanction imposed, or any remedial action taken, in relation to the decision.
- (4) The statement of reasons is to include the following—
- (a) the findings on material questions of fact, referring to the evidence or other material on which those findings were based,
 - (b) the decision-maker's understanding of the applicable law,
 - (c) the reasoning processes that led the decision-maker to the conclusions that were made.

37 Protection from personal liability

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

- (a) a member of the Authority, or
 - (a1) a Commissioner or member of the staff of the NICC, or
- (b) the Secretary, or
- (c) a designated Public Service employee or other Public Service employee, 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.

37A Submissions to Authority by Secretary

- (1) The Secretary may make a submission to the Authority or NICC in relation to any

application made to the Authority or NICC under the gaming and liquor legislation.

- (2) If any such submission is made to the Authority or NICC, the Authority or NICC is to take the submission into consideration, including any recommendations contained in the submission, before determining the application.

38 Delegation by Secretary

The Secretary may delegate to any Public Service employee any of the Secretary's functions under this Act (other than this power of delegation).

38A Fees for services provided under the gaming and liquor legislation

- (1) A fee may be charged for services provided, on request, by a Public Service employee in connection with the administration of the gaming and liquor legislation. Any such fee cannot exceed the amount determined by the Secretary as a reasonable fee for the service provided.
- (2) This section does not apply in relation to any service for which a fee or charge is prescribed by the regulations under the gaming and liquor legislation.

38B Payment of fees under gaming and liquor legislation

- (1) A fee required to be paid under the gaming and liquor legislation, including a fee charged or determined by the Authority, is payable—
 - (a) for a fee required to be paid under the *Casino Control Act 1992* or the regulations under that Act to a person specified in that Act or the regulations—to the specified person, or
 - (b) otherwise—to the Secretary.
- (2) Subsection (1)(b) does not limit the operation of any provision of the gaming and liquor legislation that requires fees to be paid to the Secretary.

39 Annual reporting information

The annual reporting information prepared for the Department under the *Government Sector Finance Act 2018* may include any annual reporting information required under that Act for the Authority.

40 Recovery of money due to Secretary

- (1) Any money due to the Secretary 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 Secretary in a court of competent jurisdiction as a debt due to the Crown.
- (2) This section does not limit the operation of section 26 of the *Casino Control Act 1992*.

41 Seal of Authority

The seal of the Authority is to be kept by the Chairperson of the Authority and may be affixed to a document only—

- (a) in the presence of the Chairperson of the Authority or a designated Public Service employee authorised in that behalf by the Chairperson, and
- (b) with an attestation by the signature of the Chairperson of the Authority or that designated Public Service employee of the fact of the affixing of the seal.

42 Service of documents on Authority

- (1) A document may be served on the Authority or NICC by any of the following methods—
 - (a) by sending it by post to an office of the Authority or NICC,
 - (b) by leaving it at the office with a person authorised in writing by the Authority or NICC to accept service of documents on behalf of the Authority or NICC,
 - (c) by sending it by means of electronic communication addressed to the Authority or NICC at the Authority's or NICC's address for service of electronic communications.
- (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 or NICC 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 NICC, or
 - (b) as nominated by the person and provided to the Authority or NICC.
- (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 must be—

- (a) disposed of summarily before the Local Court, and
- (b) started not later than 12 months after the date on which the offence is alleged to have been committed.

46 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

Note—

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) 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.
- (6) 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(3))

Part 1 Members

1 Definition

In this Schedule—

appointed member means a member of the Authority.

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 4 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 but may not be a member for more than 2 consecutive terms.

4 Remuneration

- (1) An appointed member is entitled to be paid—
- (a) remuneration in accordance with the [Statutory and Other Offices Remuneration Act 1975](#), and
- (b) allowances, decided by the Minister, to reimburse the appointed member for expenses the member may incur.

Example of expenses that may be incurred—

travel or accommodation

- (2) An appointed member who is a Judge is not, while receiving salary or allowance as a

Judge, entitled to remuneration under this Act.

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 Part 6 of the [Government Sector Employment Act 2013](#), 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 office of an appointed member is a statutory office and the provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to that office.

(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 this Act or any Act that amends 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 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.