

South Australia

Gambling Administration Act 2019

An Act to regulate and control gambling activities in the State, to repeal the *Gambling Administration Act 1995* and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Gambling Administration Act 2019*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Purpose and objects of Act

- (1) The purpose of this Act is to consolidate various administrative and regulatory provisions relating to different forms of gambling in the State, and to confer various functions and powers on the Commissioner in connection with the administration of gambling Acts.
- (2) The objects of this Act are—
 - (a) to reduce the prevalence and severity of harm associated with the misuse and abuse of gambling activities; and
 - (b) to foster responsible conduct in relation to gambling and, in particular, to ensure that gambling is conducted responsibly, fairly and honestly, with regard to minimising the harm associated with gambling; and
 - (c) to facilitate the balanced development and maintenance, in the public interest, of an economically viable and socially responsible gambling industry in the State recognising the positive and negative impacts of gambling on communities; and

- (d) to ensure that gambling is conducted honestly and free from interference, criminal influence and exploitation; and
 - (e) to ensure, as far as practicable, that the conduct of gambling is consistent with the expectations and aspirations of the public.
- (3) A person exercising functions and powers under a gambling Act must have regard to the objects set out in subsection (2).
- (4) The Commissioner must, in considering whether a matter is or is not in the public interest for the purposes of a gambling Act, have regard to the need for gambling harm minimisation.

4—Application of Act in relation to gambling Acts

If a provision of a gambling Act specifies that the gambling Act and this Act are to be read together as a single Act, the provisions of this Act prevail over an inconsistent provision in that gambling Act, unless the inconsistent provision is expressed to apply despite the provisions (or a specified provision) of this Act.

5—Interpretation

In this Act, unless the contrary intention appears—

Commissioner means the person for the time being holding or acting in the office of the Liquor and Gambling Commissioner under the *Liquor Licensing Act 1997* (or the Commissioner's delegate);

Court means the Licensing Court of South Australia;

criminal intelligence means information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety;

gambling Act means each of the following:

- (a) this Act;
- (b) the *Authorised Betting Operations Act 2000*;
- (c) the *Casino Act 1997*;
- (d) the *Gaming Machines Act 1992*;
- (e) the *Lotteries Act 2019*;
- (f) any other Act prescribed by regulation;

gambling administration guidelines—see Part 2 Division 4;

Gambling Advisory Council—see Part 8;

gambling provider means each of the following:

- (a) the holder of a licence under the *Authorised Betting Operations Act 2000*;
- (b) an authorised interstate betting operator under the *Authorised Betting Operations Act 2000*;
- (c) the holder of the casino licence under the *Casino Act 1997*;

- (d) the holder of a licence under the *Gaming Machines Act 1992*;
- (e) the holder of a licence, or a person conducting a lottery under the *Lotteries Act 2019*;

inspector—see Part 4;

proceedings means—

- (a) disciplinary proceedings; or
- (b) proceedings on an application, inquiry, review, reconsideration (under section 48) or appeal,

whether by way of a hearing or by determination of the matter by the Commissioner by some other means;

relevant Minister means—

- (a) the Treasurer; and
- (b) each Minister responsible for the administration of a gambling Act; and
- (c) any Minister with responsibility for the racing industry in the State;
- (d) any Minister responsible for the administration of an Act or a provision of an Act regulating a gambling activity in the State;

welfare agency means an administrative unit of the Public Service responsible for performing functions in relation to the administration of the Gamblers Rehabilitation Fund (established under section 73BA of the *Gaming Machines Act 1992*).

Part 2—The Commissioner

Division 1—Functions and powers of Commissioner

6—Functions of Commissioner

The Commissioner has the following functions:

- (a) to develop and promote strategies for reducing the incidence of problem gambling and for preventing or minimising the harm caused by gambling;
- (b) to undertake, assist in or coordinate ongoing research into matters relevant to gambling and the Commissioner's functions relating to gambling, including research into—
 - (i) the social and economic costs and benefits to the community of gambling and the gambling industry; and
 - (ii) the likely impact, both negative and positive, on the community of any new gambling product or gambling activity that might be introduced by any section of the gambling industry; and
 - (iii) strategies for reducing the incidence of problem gambling and preventing or minimising the harm caused by gambling; and
 - (iv) any other matter directed by the Minister;

- (c) to provide a proactive whole-of-industry and client-centric responsive approach to the promotion of responsible gambling practices and the prevention or minimisation of harm caused by gambling;
- (d) to ensure that an effective and efficient system of supervision is established and maintained over operations undertaken under a gambling Act;
- (e) to conduct consumer and gambling provider education campaigns and publish advertisements directed at reducing the incidence of problem gambling and for preventing or minimising the harm caused by gambling;
- (f) to encourage the gambling industry and related professional associations to disseminate to their members, and enforce compliance with, responsible gambling and advertising codes of practice;
- (g) to publish reports and disseminate statistical information on matters relating to operations undertaken under a gambling Act;
- (h) to consider representations from, and give consideration to matters identified by, the Gambling Advisory Council or the welfare agency relating to the incidence of problem gambling or measures for preventing or minimising the harm caused by gambling;
- (i) to advise, and make recommendations to, a relevant Minister on matters relating to operations undertaken under a gambling Act or on any aspect of the operation, administration or enforcement of a gambling Act;
- (j) to perform other functions assigned to the Commissioner under a gambling Act or by the Minister.

7—Inquiries by Commissioner

- (1) The Commissioner may conduct an inquiry whenever the Commissioner considers it necessary or desirable to do so for the purpose of carrying out the Commissioner's functions.
- (2) The Commissioner must, if requested to do so by the Minister, conduct an inquiry into any matter relating to—
 - (a) operations undertaken by a gambling provider; or
 - (b) the operation, administration or enforcement of a gambling Act.
- (3) On completing an inquiry under this section, the Commissioner must submit to the Minister a report of the inquiry and the findings of the Commissioner on the inquiry, and any such report may include recommendations for action to be taken.
- (4) Unless the Commissioner recommends that the report should remain confidential, the Minister must, within 6 sitting days of receiving a report under subsection (3), cause a copy of the report to be laid before each House of Parliament.

8—General power to obtain information

- (1) It is a condition of each licence, authorisation or exemption held under a gambling Act that the holder of the licence, authorisation or exemption must, on the written request of the Commissioner, provide information—
 - (a) that the Commissioner requires for the administration or enforcement of a gambling Act; or

- (b) that is related to the financial affairs of the business undertaken under the relevant licence, authorisation or exemption; or
 - (c) that is related to the operations undertaken under the relevant licence, authorisation or exemption, including any information relating to the financial accounts in relation to the operations undertaken under the relevant licence, authorisation or exemption.
- (2) Information required to be provided under this section must be provided within the time specified in the request.
- Maximum penalty: \$10 000.

9—Powers to make interim or conditional decisions and accept undertakings from parties

- (1) The Commissioner may—
- (a) grant an application under a gambling Act on an interim basis; and
 - (b) specify that a condition of a licence, an approval, authorisation or exemption is to be effective for a specified period,
- and, in consequence, may give any necessary procedural directions in the matter.
- (2) If the Commissioner considers that an applicant should satisfy the Commissioner as to a certain matter for the purposes of determining the application, the Commissioner may, if the Commissioner thinks fit, nevertheless grant the application on the condition that the applicant satisfies the Commissioner as to the matter within a period determined by the Commissioner.
- (3) If a licence, an approval, authorisation or exemption is granted on a condition under subsection (2), the Commissioner may, on failure by the applicant to comply with the condition, revoke the licence, approval, authorisation or exemption, or suspend the licence, approval, authorisation or exemption until further order.
- (4) The Commissioner may in proceedings accept an undertaking from a party in relation to the conduct of the proceedings and, on failure by the party to fulfil the undertaking, refuse to hear the party further in the proceedings subject to any further order of the Commissioner.

10—Commissioner may give directions

- (1) The Commissioner may, from time to time by notice to a gambling provider, give directions in relation to any aspect of the operations conducted by the gambling provider including matters relating to the management, supervision and control of the relevant operations.
- (2) Before the Commissioner gives directions under this section, the Commissioner must, unless the Commissioner considers it necessary not to do so in the circumstances—
- (a) give notice to the relevant gambling provider of the proposed directions; and
 - (b) consider any representations made by the relevant gambling provider or a body representative of a gambling provider about the proposed directions within 14 days after the notice is given or a longer period allowed in the notice.

- (3) A gambling provider must diligently observe and carry out a direction given under this section.

Maximum penalty:

- (a) in the case of the holder of a major betting operations licence, or an authorised interstate betting operator under the *Authorised Betting Operations Act 2000*—\$100 000; or
- (b) in the case of the holder of the casino licence—\$100 000; or
- (c) in the case of the holder of the gaming machine monitor licence under the *Gaming Machines Act 1992*—\$50 000;
- (d) in any other case—\$35 000.

Division 2—Proceedings before Commissioner

11—Conduct of proceedings

In proceedings under a gambling Act, the Commissioner—

- (a) must act without undue formality; and
- (b) is not bound by the rules of evidence, but may seek to be informed on any question that arises for decision in such manner as the Commissioner thinks fit.

12—Powers of Commissioner

- (1) The Commissioner may exercise the following powers:
- (a) by summons, require any person to attend before the Commissioner at a time and place specified in the summons;
 - (b) by summons, require the production of any equipment or other item, or any documents;
 - (c) inspect any equipment or other item, or any documents produced before the Commissioner and retain them for such reasonable period as the Commissioner thinks fit, and, in the case of documents, make copies of any of them, or of any of their contents;
 - (d) require any person to make oath or affirmation verifying that the person will truly answer all questions put to them by the Commissioner relating to any matter that is before the Commissioner;
 - (e) require any person appearing before the Commissioner to answer any relevant questions put to them by the Commissioner or by any person appearing before the Commissioner.
- (2) If a person—
- (a) who has been served with a summons to appear before the Commissioner, fails without reasonable excuse (proof of which lies on the person) to attend in obedience to the summons; or
 - (b) who has been served with a summons to produce equipment or any other items or documents, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons; or

- (c) misbehaves before the Commissioner, wilfully insults the Commissioner or interrupts the proceedings of the Commissioner; or
- (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Commissioner,

the person is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

- (3) The Commissioner may by order, if requested to do so by a person who has been required to answer a question by the Commissioner or who has produced documents to the Commissioner, prohibit the publication by any means of—
 - (a) the name of the person; or
 - (b) any answer given by them in proceedings before the Commissioner; or
 - (c) the contents of any document produced by them to the Commissioner.
- (4) A person who contravenes an order under subsection (3) is guilty of an offence.
Maximum penalty: \$10 000.
- (5) The Commissioner may conduct proceedings at any time and in any place (including a place outside this State) and may adjourn any proceedings from time to time and from place to place.
- (6) In the course of any proceedings, the Commissioner may—
 - (a) receive in evidence any transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the transcript that the Commissioner thinks proper; or
 - (b) adopt, as the Commissioner thinks fit, any findings, decision or judgment of a court or tribunal that may be relevant to the matter before the Commissioner.
- (7) The Commissioner may—
 - (a) conduct any proceedings by telephone or other electronic means; and
 - (b) allow a person to participate in any proceedings by telephone or other electronic means.

13—Representation before Commissioner

- (1) A person appearing before the Commissioner may appear—
 - (a) personally; or
 - (b) by counsel; or
 - (c) if a body corporate—by an officer or employee of the body corporate who has obtained leave of the Commissioner to appear on behalf of the body corporate; or
 - (d) if the party is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry, the gambling industry or of employees in those industries—by an officer or employee of that association; or
 - (e) with the permission of the Commissioner—by any other person.

- (2) The Commissioner of Police may be represented before the Commissioner by a police officer or by counsel.
- (3) The welfare agency may be represented before the Commissioner by a member of the welfare agency or by counsel.

14—Power of Commissioner to refer questions to Court

The Commissioner may refer for hearing and determination by the Court—

- (a) proceedings that involve questions of substantial public importance; or
- (b) a question of law that arises in proceedings before the Commissioner; or
- (c) any other matter that should, in the public interest or in the interests of a party to the proceedings, be heard and determined by the Court.

Division 3—Codes of practice

15—Codes of practice

- (1) The Commissioner may, by notice in the Gazette, prescribe—
 - (a) advertising codes of practice; and
 - (b) responsible gambling codes of practice.
- (2) Without limiting the generality of subsection (1)(a), an advertising code of practice may—
 - (a) make provision by which a gambling provider can ensure that gambling related advertising is—
 - (i) consistent with community expectations that gambling operations will be conducted responsibly and in a manner that minimises the harm caused by gambling; and
 - (ii) socially responsible; and
 - (iii) compliant with State and Commonwealth laws; and
 - (iv) complies with any relevant gambling industry codes of practice; and
 - (b) make provision relating to the form, content and use of gambling related advertising, which may include requirements, limitations or prohibitions in relation to the following:
 - (i) the use of the name of a gambling provider;
 - (ii) the use of specified expressions or words;
 - (iii) the value or nature of a prize to be won;
 - (iv) advertising in relation to loyalty programs;
 - (v) the appropriate use and depiction of mandatory warning messages;
 - (vi) advertising on radio, television, print media, signs and billboards;
 - (vii) advertising and promoting betting on contingencies; and
 - (c) include matters incorporating Commonwealth or intergovernmental agreements; and

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- (d) include other matters designed to reduce the harm caused by gambling.
- (3) Without limiting the generality of subsection (1)(b), a responsible gambling code of practice may—
- (a) require a gambling provider to provide information to patrons regarding responsible gambling, the availability of services to address problems associated with gambling (including barring orders) and any other matter under a gambling Act, whether by—
 - (i) signs and warning notices; or
 - (ii) the use of audio, visual, or electronic means,in a manner, and in accordance with any requirements, specified in the code; and
 - (b) make provision relating to—
 - (i) the use of specified words or expressions in connection with gambling on gaming machines or automated table game equipment and the manner and form in which such words or expressions are to be used; and
 - (ii) requirements for the words or expressions to be displayed on the gaming machine screen or automated table game equipment screen, on a screen that is visible to a person operating the machine or equipment or in some other specified manner; and
 - (c) make provision relating to the making of barring orders under Part 6; and
 - (d) require a gambling provider to have a program for intervention in problem gambling designed to promote—
 - (i) identification of persons engaging in problem gambling, including through observation of the conduct, patterns of behaviour and statements of gamblers; and
 - (ii) the provision of information relating to responsible gambling and the availability of services to address problems associated with gambling to persons so identified; and
 - (iii) the use of barring orders under Part 6 in relation to persons so identified; and
 - (iv) the referral of persons so identified to the Department within the meaning of the *Problem Gambling Family Protection Orders Act 2004*; and
 - (e) make provision (including limitations and prohibitions) relating to the provision and operation of customer loyalty programs; and
 - (f) require the keeping and management of accounts and records of patrons' gambling activities, and the provision of such accounts and records to the Commissioner in a manner specified in the applicable code; and
 - (g) requirements for systems and procedures designed to prevent gambling by minors; and

- (h) require a gambling provider to comply with specified requirements in relation to staff training including (without limitation)—
 - (i) requiring staff, or specified classes of staff, to complete the whole or any part of the training courses in accordance with the gambling administration guidelines; and
 - (ii) specifying procedures for obtaining exemptions from the requirements referred to in subparagraph (i) in relation to particular staff, or a specified class of staff (and any such exemptions may be granted by the Commissioner subject to conditions the Commissioner thinks fit); and
 - (i) include matters incorporating Commonwealth law or intergovernmental agreements; and
 - (j) include other matters designed to reduce the harm caused by gambling.
- (4) The Commissioner may include provisions in a code of practice that—
- (a) designate a provision of the code as a mandatory provision for the purposes of a specified provision of a gambling Act; and
 - (b) declare whether contravention or failure to comply with the mandatory provision is a category A, B, C or D offence for the purposes of that specified provision; and
 - (c) if the offence is to be expiable—declare whether the offence is a category A, B, C or D expiable offence for the purposes of that specified provision.
- (5) The provisions of a code of practice prescribed under this section may be of general, limited or varied application according to—
- (a) the classes of gambling provider, person, equipment or operations; or
 - (b) the circumstances; or
 - (c) any other specified factor,
- to which the provision is expressed to apply.
- (6) The Commissioner may, by subsequent notice in the Gazette, vary or revoke a code of practice or a provision of a code of practice under this section.
- (7) Before the Commissioner publishes a notice in the Gazette under this section, the Commissioner must—
- (a) give notice in a manner determined by the Commissioner of the proposed notice to any relevant gambling provider, any relevant body representative of a gambling provider and the Commissioner of Police; and
 - (b) consider any representations made under paragraph (a) about the proposed notice within 28 days after the notice is given or a longer period allowed in the notice.
- (8) The Commissioner may, at any time, undertake a review of the codes of practice prescribed under this section.
- (9) The Commissioner must, when conducting a review, seek and consider written submissions from the Commissioner of Police, relevant gambling providers, relevant bodies representative of gambling providers and from the public.

(10) The Commissioner must cause any codes of practice prescribed under this section to be published on a website maintained by the Commissioner.

(11) In this section—

gambling provider includes the Lotteries Commission of South Australia constituted under the *State Lotteries Act 1966*.

16—Offence of breach of mandatory provisions of codes

(1) A gambling provider or other person involved in an activity to which a gambling Act applies must not contravene or fail to comply with a mandatory provision of the advertising code of practice or the responsible gambling code of practice that applies to the gambling provider or other person.

Maximum penalty:

- (a) for a category A offence—\$20 000;
- (b) for a category B offence—\$10 000;
- (c) for a category C offence—\$5 000;
- (d) for a category D offence—\$2 500.

Expiation fee:

- (a) for a category A expiable offence—\$1 200;
- (b) for a category B expiable offence—\$315;
- (c) for a category C expiable offence—\$210;
- (d) for a category D expiable offence—\$160.

(2) For the purposes of subsection (1), a contravention of, or failure to comply with, a mandatory provision of the advertising code of practice or the responsible gambling code of practice is a category A, B, C or D offence, or a category A, B, C or D expiable offence, if it has been declared to be such an offence by the Commissioner in accordance with section 15(4).

Division 4—Gambling administration guidelines

17—Gambling administration guidelines

- (1) The Commissioner may, by notice in the Gazette, issue guidelines (the *gambling administration guidelines*) in relation to the following:
- (a) requirements for the approval of systems and procedures designed to prevent gambling by children;
 - (b) requirements for the approval of training courses required to be undertaken under a gambling Act;
 - (c) requirements for cashless gaming systems and automated risk monitoring systems to be approved by the Commissioner under the *Casino Act 1997* or the *Gaming Machines Act 1992* which must address—
 - (i) in relation to an account based cashless gaming system—
 - (A) the maximum value to be stored and transferred from a user's account to a gaming machine or automated table game (as the case requires); and

- (B) the payment of prizes; and
 - (C) the provision of account statements; and
 - (D) any other matter prescribed by the regulations; or
 - (ii) in relation to an automated risk monitoring system—
 - (A) identifying indicators of potential harmful gambling behaviour; and
 - (B) any other matter prescribed by the regulations;
 - (iii) in relation to a cashless gaming system of a kind prescribed by the regulations under section 40B(1)(c) of the *Casino Act 1997* or section 40A(1)(c) of the *Gaming Machines Act 1992*—any matter prescribed by the regulations;
 - (d) requirements in relation to an application to the Commissioner for an approval under a gambling Act, including the approval of games, gaming machines, gaming equipment and gaming related systems;
 - (e) requirements for facial recognition systems to be approved by the Commissioner under the *Casino Act 1997* or the *Gaming Machines Act 1992*;
 - (f) any other matter relevant to the operations undertaken under a gambling Act.
- (2) The Commissioner may, by subsequent notice in the Gazette, vary or revoke a notice under this section.
- (3) Before the Commissioner publishes a notice in the Gazette under this section, the Commissioner must—
- (a) give notice in a manner determined by the Commissioner of the proposed notice to any relevant gambling provider and any relevant body representative of a gambling provider; and
 - (b) consider any representations made under paragraph (a) about the proposed notice within 28 days after the notice is given or a longer period allowed in the notice.
- (4) The provisions of the gambling administration guidelines may be of general, limited or varied application according to—
- (a) the class of gambling provider or person; or
 - (b) the circumstances; or
 - (c) any other specified factor,
- to which the provision is expressed to apply.
- (5) The Commissioner must cause any gambling administration guidelines to be published on a website maintained by the Commissioner.

Division 5—Delegation

18—Delegation

- (1) The Commissioner may delegate powers or functions under a gambling Act or instrument to any person.

- (2) A delegation under this section—
 - (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the Commissioner to act personally in any matter; and
 - (c) is revocable at will; and
 - (d) may, if the instrument of delegation so provides, be further delegated.

Part 3—Disclosure of information

19—Disclosure of information

- (1) The Commissioner or an authorised person must not disclose information obtained in the course of carrying out official functions except—
 - (a) to another person who has official functions under a gambling Act, to the Commissioner of Police or as may otherwise be required for carrying out such official functions; or
 - (b) to an approved industry body within the meaning of the *Gaming Machines Act 1992* for the purposes of ensuring compliance with a responsible gambling agreement entered into under that Act; or
 - (c) to a relevant Minister; or
 - (d) as permitted by the person in whose favour the duty of confidentiality exists; or
 - (e) to a reciprocating authority, or an officer or employee of a reciprocating authority; or
 - (f) as required by law; or
 - (g) as is otherwise necessary for the proper administration of a gambling Act.Maximum penalty: \$10 000.
- (2) An authority, officer or person responsible for the administration or enforcement of laws relating to the supervision or control of gambling in another jurisdiction is a ***reciprocating authority*** if—
 - (a) the other jurisdiction is the Commonwealth, a State or Territory of the Commonwealth, or New Zealand; or
 - (b) there is an arrangement in force between the South Australian government and the government of the relevant jurisdiction for the exchange of information relevant to the administration or enforcement of laws for the supervision or control of gambling.
- (3) The holder of a gaming machine licence under the *Gaming Machines Act 1992* may disclose information relating to barring orders under Part 6 to an approved industry body with whom the licensee has entered into an approved responsible gambling agreement (within the meaning of that Act).

(4) In this section—

authorised person means each of the following:

- (a) a police officer;
- (b) an inspector;
- (c) a person who is or has been, at any time, engaged in the administration or enforcement of a gambling Act, including under the *Independent Gambling Authority Act 1995* or the *Gambling Administration Act 1995*;
- (d) a person who is or has been, at any time, a member of the Gambling Advisory Council or any other body or committee established under the *Independent Gambling Authority Act 1995* or the *Gambling Administration Act 1995*;
- (e) a person who is or has been, at any time, a member of the gambling advisory committee established under section 73BA of the *Gaming Machines Act 1992*;
- (f) a person of a class prescribed by regulation for the purposes of this definition.

20—Disclosure of statistical information about expenditure on gambling activities

- (1) Subject to subsection (2), the Commissioner may make publicly available statistical information about expenditure relating to gambling activities undertaken under a gambling Act if the statistics have been aggregated—
 - (a) to give the total expenditure for all gambling activities of a particular kind undertaken in a particular council area; or
 - (b) if gambling activities of a particular kind are undertaken at less than 3 locations in a particular council area—to give the total expenditure for all gambling operations of that kind in the council area together with an adjoining council area or areas so that the statistical information indicates expenditure for at least 3 locations where gambling of that kind is undertaken.
- (2) The Commissioner may make publicly available information regarding expenditure on gambling activities undertaken under a gambling Act (including statistical information that has not been aggregated in accordance with subsection (1)) if—
 - (a) the Commissioner considers it is in the public interest to do so; or
 - (b) making the information available is reasonable in the circumstances; or
 - (c) the information is of a prescribed kind.
- (3) In this section—

council means a municipal or district council.

21—Publication of determinations—confidential information

If the Commissioner publishes a determination made under a gambling Act, the Commissioner may exclude from publication information that the Commissioner considers to be—

- (a) personal information of a confidential nature; or

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- (b) information that has a commercial or other value that would be, or could reasonably be expected to be, destroyed or diminished if the information were published; or
 - (c) information the publication of which would, or could reasonably be expected to, prejudice the commercial position of a person or confer a commercial advantage on a person; or
 - (d) information the publication of which—
 - (i) would otherwise be contrary to the public interest; or
 - (ii) would be inappropriate for such other reason as the Commissioner thinks fit.

22—Criminal intelligence

- (1) No information provided by the Commissioner of Police to the Commissioner under a gambling Act may be disclosed to any person (except the Minister, a court or a person to whom the Commissioner of Police authorises its disclosure) if the information is classified by the Commissioner of Police as criminal intelligence.
- (2) If the Commissioner—
 - (a) makes a decision under a gambling Act; and
 - (b) the decision is made because of information that is classified by the Commissioner of Police as criminal intelligence,the Commissioner is not required to provide any grounds or reasons for the decision other than that, in the view of the Commissioner, the making of any other decision would have been contrary to the public interest.
- (3) In any proceedings under a gambling Act, the Court—
 - (a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and
 - (b) may take evidence consisting of or relating to information classified by the Commissioner of Police as criminal intelligence by way of affidavit of a police officer of or above the rank of superintendent.
- (4) The Commissioner of Police may not delegate the function of classifying information as criminal intelligence for the purposes of a gambling Act except to a Deputy Commissioner or Assistant Commissioner of Police.

Part 4—Inspectors

Division 1—Inspectors

23—Appointment of inspectors

- (1) The Commissioner may appoint a person to be an inspector for the purposes of a gambling Act.

- (2) An inspector is a Public Service employee.
- (3) An appointment may be made subject to conditions specified in the instrument of appointment.
- (4) The Commissioner may, at any time, revoke an appointment or vary, revoke or add a condition of an appointment.

24—Identification of inspectors

- (1) The Commissioner must provide each inspector with identification in a form determined by the Commissioner that—
 - (a) contains the person's name and a photograph of the person; and
 - (b) states that the person is an inspector for the purposes of a gambling Act.
- (2) If the powers of an inspector have been limited by conditions under this Part, the inspector's identification must contain a statement of the limitation on the inspector's powers.
- (3) An inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise powers, produce the inspector's identification.

Division 2—Functions and powers of inspectors

25—Purpose of exercising powers of inspectors

An inspector may exercise powers under this Part at any reasonable time for the purposes of—

- (a) administering or enforcing a gambling Act; or
- (b) obtaining information or records for purposes connected with the administration of a gambling Act; or
- (c) determining whether there has been compliance with or contravention of a gambling Act.

26—Power to enter and inspect etc

- (1) Subject to this section, an inspector may—
 - (a) enter or, where necessary, break into any place, using only such force as is reasonably necessary for the purpose; and
 - (b) inspect or search the place or anything in the place; and
 - (c) require any person in the place to—
 - (i) produce any equipment or other items, or any books, papers or documents, that are in the person's custody or control; and
 - (ii) answer any questions put by the inspector; and
 - (iii) facilitate the examination by an inspector of any systems, procedures or equipment used for conducting operations authorised under a gambling Act; and
 - (iv) facilitate the examination by an inspector of—

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- (A) systems, procedures or equipment used for surveillance or security; or
 - (B) accounts, records or other documents relating to operations authorised under a gambling Act; and
- (d) enter or, where necessary, break into any vehicle or vessel, using only such force as is reasonably necessary for the purpose and search the vehicle or vessel; and
 - (e) inspect any documents produced to the inspector and retain them for so long as is reasonably necessary for the purpose of copying or taking extracts from them; and
 - (f) require a person who the inspector reasonably suspects has knowledge of matters in respect of which information is reasonably required for the administration or enforcement of a gambling Act to answer questions in relation to those matters; and
 - (g) if the inspector suspects on reasonable grounds that an offence has been committed, seize and retain anything that the inspector believes—
 - (i) affords evidence of the offence; or
 - (ii) has been used in connection with the commission of the offence; and
 - (h) give such directions as are reasonably necessary for, or as are incidental to, the effective exercise of the inspector's powers under this Part; and
 - (i) exercise additional functions and powers of an inspector as authorised under a gambling Act.
- (2) An inspector may only exercise powers under subsection (1) in relation to a place—
- (a) at any time when operations of a kind authorised under a gambling Act are being conducted in the place; or
 - (b) at any time when there are reasonable grounds to suspect that an offence has been, is being or is about to be committed in the place or that evidence of such an offence is likely to be found in the place; or
 - (c) at any reasonable time when the exercise of the powers is required for the purposes of the administration or enforcement of a gambling Act.
- (3) An inspector may only exercise powers—
- (a) under subsection (1)(a) in relation to a place in which there are not any operations of a kind authorised under a gambling Act being conducted; or
 - (b) under subsection (1)(d) in relation to a vehicle or vessel,
- on the authority of a warrant issued by a magistrate.
- (4) A magistrate cannot issue a warrant under subsection (3) unless satisfied, on information given on oath—
- (a) that there are reasonable grounds for suspecting that an offence has been, is being or is about to be committed; and
 - (b) that the warrant is reasonably required in the circumstances.

- (5) An inspector may, in exercising powers under this Part, be accompanied by such assistants as are reasonably necessary for the purpose.

27—Power to give directions in relation to gaming operations

- (1) In addition to the powers conferred by this Division, an inspector may, if the inspector suspects on reasonable grounds that—
- (a) a gaming machine, game or equipment or a system operated in connection with a gaming machine, game, or equipment, is defective or is not operating correctly; or
 - (b) the monitoring system required under the *Gaming Machines Act 1992* is defective or is not operating correctly,

the inspector may give such directions to a gambling provider or any employee of the gambling provider as the inspector thinks fit for the purpose of ensuring compliance with a gambling Act or the proper conduct of operations under a gambling Act.

- (2) If a person refuses or fails to comply with a direction given under subsection (1), the inspector may do such things as are reasonably necessary to ensure compliance with the direction, including, if the inspector believes it to be the only effective way of ensuring compliance, the seizure of any gaming machine, game or equipment.

28—Power to enter and remain in casino premises

In addition to the powers conferred by this Division, an inspector may at any time enter and remain in the casino premises to ascertain whether—

- (a) the operation of the casino is being properly supervised and managed; or
- (b) the provisions of this Act, the *Casino Act 1997* and the conditions of the casino licence are being complied with.

29—Power to ask for evidence of age

- (1) An inspector may require a person in, about to enter or in the vicinity of, a place at which operations of a kind authorised under a gambling Act are being conducted, and who the inspector reasonably suspects is under the age of 18 years, to produce evidence as to the person's age that complies with the requirements of the regulations.
- (2) A person who—
- (a) fails, without reasonable excuse, to comply with a requirement under this section; or
 - (b) makes a false statement, or produces false evidence, in response to such a requirement,

is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

30—Commissioner and police officers to exercise same powers as inspectors

The Commissioner and police officers may exercise the powers of an inspector under a gambling Act.

Division 3—Miscellaneous

31—Report to Commissioner

- (1) If an inspector becomes aware of an irregularity, deficiency or defect—
 - (a) in the supervision or management in relation to operations under a gambling Act; or
 - (b) in the accounts or records of a gambling provider; or
 - (c) in the operation of a gaming machine, automated table game, game or system operated under a gambling Act,

the inspector must report on the irregularity or deficiency to the Commissioner.

- (2) If an inspector suspects on reasonable grounds that—
 - (a) a gambling provider has improperly obtained a relevant authorisation; or
 - (b) a gambling provider is not a fit and proper person to hold the relevant authorisation; or
 - (c) in the case of a gambling provider holding a relevant authorisation that is a trust or corporate entity—a person who occupies a position of authority in the entity is not a fit and proper person to occupy such a position in an entity holding such an authorisation; or
 - (d) a gambling provider has contravened or failed to comply with a provision of a gambling Act or a condition of a relevant authorisation; or
 - (e) a gambling provider has contravened or failed to comply with a provision of a relevant advertising code of practice or a relevant responsible gambling code of practice,

the inspector must report the matter to the Commissioner.

- (3) In this section—

relevant authorisation has the same meaning as in Part 5.

32—Dealing with seized things

- (1) If an inspector seizes any material or thing under this Part, the seized material or thing must be dealt with in accordance with the regulations.
- (2) Without limiting the generality of subsection (1), regulations made under this section may provide for the following:
 - (a) procedures relating to the seizure of materials or things under this Part;
 - (b) the manner in which seized things may be dealt with including (but not limited to)—
 - (i) the circumstances in which seized things may be returned to a person; and
 - (ii) provisions for a court to order the forfeiture of seized things; and
 - (iii) the circumstances in which seized things may be destroyed;

- (c) the keeping of records in the prescribed manner in relation to the seizing of material or things under this Part;
- (d) the recovery by the Commissioner of any costs incurred in dealing with seized material or things.

33—Offence to hinder or obstruct an inspector etc

- (1) Subject to this section, a person who—
- (a) without reasonable excuse, hinders or obstructs an inspector in the exercise of powers under this Part; or
 - (b) fails to answer a question put by an inspector to the best of the person's knowledge, information or belief; or
 - (c) fails to comply with any other lawful requirement or direction of an inspector; or
 - (d) uses abusive, threatening or insulting language to an inspector or a person assisting an inspector; or
 - (e) falsely represents, by word or conduct, that the person is an inspector,
- is guilty of an offence.

Maximum penalty: \$20 000.

- (2) A natural person is not required to answer a question, or to produce documents, under this Part if—
- (a) the answer to the question or the contents of the documents would tend to incriminate the person of an offence; or
 - (b) answering the question or producing the documents would result in a breach of legal professional privilege.
- (3) In subsection (2)—

offence means an offence against a gambling Act or any other offence arising out of or committed in connection with the conduct of operations of a kind authorised by a gambling Act.

34—Inspectors not to gamble

An inspector must not, unless authorised to do so by the Commissioner—

- (a) engage in gambling at the casino premises; or
- (b) operate a gaming machine on premises subject to a gaming machine licence or the special club licence under the *Gaming Machines Act 1992*.

Maximum penalty: \$10 000.

Part 5—Disciplinary action against gambling providers

35—Interpretation

In this Part—

casino licence has the same meaning as in the *Casino Act 1997*;

gambling provider includes—

- (a) a former gambling provider; and
- (b) in the case of the holder of a licence under the *Gaming Machines Act 1992*—
 - (i) the holder of a temporary licence under that Act; and
 - (ii) a person authorised under that Act to carry on the business of the licensee; and
 - (iii) if the licence under that Act is held by a trustee—the trust.

relevant authorisation means—

- (a) the casino licence; and
- (b) a licence or authorisation under the *Authorised Betting Operations Act 2000*; and
- (c) a licence under the *Gaming Machines Act 1992*; and
- (d) a licence under Part 3 or 4 of the *Lotteries Act 2019*.

36—Cause for disciplinary action

- (1) There is proper cause for disciplinary action against a gambling provider if the Commissioner is satisfied that—
 - (a) the gambling provider improperly obtained a relevant authorisation; or
 - (b) the gambling provider is not a fit and proper person to hold the relevant authorisation; or
 - (c) in the case of a gambling provider holding a relevant authorisation that is a trust or corporate entity—a person who occupies a position of authority in the entity is not a fit and proper person to occupy such a position in an entity holding such an authorisation; or
 - (d) the gambling provider has contravened or failed to comply with a provision of a gambling Act or a condition of a relevant authorisation; or
 - (e) the gambling provider has contravened or failed to comply with a relevant advertising code of practice or a relevant responsible gambling code of practice; or
 - (f) the gambling provider has been convicted of an offence against a gambling Act; or
 - (g) the gambling provider has been convicted of an offence punishable by imprisonment; or
 - (h) operations under a relevant authorisation are improperly conducted; or
 - (i) in the case of the holder of a licence under the *Authorised Betting Operations Act 2000*—an event occurs, or circumstances come to light, that show the licensee or a close associate of the licensee to be an unsuitable person to hold the licence; or

- (j) in the case of an authorised interstate betting operator under the *Authorised Betting Operations Act 2000*—the authorised interstate betting operator contravenes or fails to comply with a provision of that Act or fails to discharge an obligation under an integrity agreement or contribution agreement (other than where the contravention or failure would constitute a taxation default within the meaning of section 73A of that Act); or
 - (k) in the case of the holder of the casino licence—an event occurs, or circumstances come to light, that show the licensee to be an unsuitable person to hold the licence; or
 - (l) it would be contrary to the public interest if the gambling provider were to continue to hold a relevant authorisation.
- (2) If the Commissioner believes on reasonable grounds that there is proper cause for disciplinary action against a gambling provider, the Commissioner may do 1 or more of the following:
- (a) issue a compliance notice to the gambling provider in accordance with section 37;
 - (b) issue a default notice to the gambling provider in accordance with section 38;
 - (c) take disciplinary action against the gambling provider in accordance with section 39.
- (3) In determining whether there is proper cause for disciplinary action against a gambling provider under subsection (1), the Commissioner—
- (a) may have regard to information provided to the Commissioner by the Commissioner of Police for that purpose; and
 - (b) may have regard to such evidence of the conduct (no matter when the conduct is alleged to have occurred) of the gambling provider or persons with whom the gambling provider associates (or has associated at any relevant time) as the Commissioner considers relevant, including information that existed at the time the relevant authorisation was granted, regardless of whether that information was known or could have been made known to the Commissioner at that time.

37—Compliance notice

- (1) The Commissioner may give a notice to a gambling provider (a **compliance notice**) specifying grounds for disciplinary action against a gambling provider and informing the gambling provider that disciplinary action may be avoided if the gambling provider takes specified action, within a period specified in the notice.
- (2) If the gambling provider fails to take the specified action within the time allowed in the notice, the gambling provider is guilty of an offence.

Maximum penalty:

- (a) in the case of the holder of a major betting operations licence, or an authorised interstate betting operator, under the *Authorised Betting Operations Act 2000*—\$100 000;
- (b) in the case of the holder of the casino licence—\$100 000;

- (c) in the case of the holder of the gaming machine monitor licence under the *Gaming Machines Act 1992*—\$35 000;
- (d) in any other case—\$20 000.

38—Default notice

The Commissioner may give a notice to a gambling provider (a *default notice*) specifying the grounds for disciplinary action against a gambling provider and informing the gambling provider that disciplinary action may be avoided by payment of a specified sum not exceeding—

- (a) in the case of the holder of a major betting operations licence, or an authorised interstate betting operator, under the *Authorised Betting Operations Act 2000*—\$10 000; or
- (b) in the case of the holder of the casino licence—\$10 000; or
- (c) in the case of the holder of the gaming machine monitor licence under the *Gaming Machines Act 1992*—\$5 000; or
- (d) in any other case—\$1 000,

within a period specified in the notice.

39—Disciplinary action

- (1) The Commissioner may give a notice to a gambling provider—
 - (a) specifying the nature of the cause for disciplinary action; and
 - (b) requiring the gambling provider to show cause, within a period specified in the notice (which must be at least 14 days), why disciplinary action should not be taken against them; and
 - (c) that may require the gambling provider to take specified action, or cease specified action, within a period specified in the notice, in relation to any matter specified in the notice.
- (2) After considering the submissions (if any) made by the gambling provider under subsection (1)(b), the Commissioner may, by order, take disciplinary action in 1 or more of the following ways:
 - (a) the Commissioner may reprimand the gambling provider;
 - (b) the Commissioner may impose a fine on the gambling provider not exceeding—
 - (i) in the case of the holder of a major betting operations licence, or an authorised interstate betting operator, under the *Authorised Betting Operations Act 2000*—\$100 000; or
 - (ii) in the case of the holder of the casino licence—\$100 000; or
 - (iii) in the case of the holder of the gaming machine monitor licence under the *Gaming Machines Act 1992*—\$35 000; or
 - (iv) in any other case—\$20 000;
 - (c) the Commissioner may—
 - (i) vary the conditions of the relevant authorisation; or

- (ii) give directions to the gambling provider as to the winding up of operations under the relevant authorisation; or
 - (iii) suspend the relevant authorisation for a specified or unlimited period; or
 - (iv) cancel or revoke the relevant authorisation; or
 - (v) if a relevant authorisation is cancelled or revoked—disqualify a person from holding the relevant authorisation or from being approved under a gambling Act permanently or for a specified time;
 - (d) in the case of an authorised interstate betting operator under the *Authorised Betting Operations Act 2000*, the Commissioner may—
 - (i) give written directions to the operator as to the winding up of betting operations in this State; or
 - (ii) prohibit the operator from conducting betting operations in this State for a specified or unlimited period;
 - (e) in the case of the holder of a gaming machine licence under the *Gaming Machines Act 1992*, the Commissioner may determine that 1 or more gaming machine entitlements be forfeited to the Commissioner and may cancel the forfeited entitlements accordingly.
- (3) Disciplinary action takes effect on the date of service of the order on the gambling provider or on a later date specified in the order.
- (4) If the Commissioner suspends a relevant authorisation or imposes a prohibition, the Commissioner may, at any time, terminate the suspension or prohibition.
- (5) A fine imposed under this section may be recovered as a debt due to the State.
- (6) A person who fails to comply with a requirement, order or direction of the Commissioner given under this section is guilty of an offence.

Maximum penalty:

- (a) in the case of the holder of a major betting operations licence, or an authorised interstate betting operator, under the *Authorised Betting Operations Act 2000*—\$100 000;
- (b) in the case of the holder of the casino licence—\$100 000;
- (c) in the case of the holder of the gaming machine monitor licence under the *Gaming Machines Act 1992*—\$50 000;
- (d) in any other case—\$35 000.

40—Injunctive remedies

- (1) If there are reasonable grounds to believe that a person is about to contravene or to fail to comply with a provision of a gambling Act or a condition of a licence or authorisation under a gambling Act, the Court has jurisdiction to order the person to refrain from the contravention or non-compliance.
- (2) A person who contravenes or fails to comply with an order under subsection (1) commits a contempt of the Court.

41—Punishment of contempts

- (1) A contempt of the Court is a summary offence punishable by a maximum fine of \$10 000 or imprisonment for a maximum term of 6 months.
- (2) The jurisdiction to deal with an offence against subsection (1) is vested in the Court.
- (3) If a contempt is committed in the face of the Court, the matter may be dealt with immediately (without the necessity of laying a charge or other formality) and the Court may proceed to convict and fine the offender as it thinks fit.

42—Effect of criminal proceedings

The Commissioner may take disciplinary action under this Part whether or not criminal proceedings have been, or are to be, taken in relation to the matters the subject of the disciplinary action and even though a penalty may have been already imposed by the Commissioner, however, the Commissioner must, in imposing a fine, take into account any fine that has already been imposed in criminal proceedings.

Part 6—Barring orders

43—Interpretation

- (1) In this Part—

authorised person, in relation to a place, means each of the following:

- (a) a police officer;
- (b) a person of a class prescribed by regulation (either generally or in relation to that place);
- (c) in relation to premises of a gambling provider—an agent or employee of the gambling provider;
- (d) in relation to a place at which operations of a kind authorised under the *Authorised Betting Operations Act 2000* are being conducted—a person who is an inspector for the purposes of that Act;
- (e) in relation to the gaming area, or areas, of premises to which a gaming machine licence relates—an authorised person within the meaning of the *Gaming Machines Act 1992*;

barred person means a person who is the subject of a barring order under this Part;

barring order means an order doing any 1 or more of the following:

- (a) barring a person from taking part in specified gambling activities or gambling activities of a specified class;
- (b) barring a person from entering or remaining in the whole or a part of—
 - (i) specified premises; or
 - (ii) a specified class of premises,where gambling activities are or may be undertaken;
- (c) barring a person from a prescribed place or a place of a prescribed class or from engaging in a prescribed activity or an activity of a prescribed class;

gambling provider includes the Lotteries Commission of South Australia.

- (2) For the purposes of this Part, a reference to a gambling provider does not include the holder of a licence or a person conducting a lottery under the *Lotteries Act 2019*.

44—Barring orders

- (1) The Commissioner may make a barring order in relation to a person—
- (a) at the request of that person; or
 - (b) if—
 - (i) there is a reasonable apprehension that the person is at risk of harm, or is at risk of causing harm to a family member of the person, because of gambling; and
 - (ii) the Commissioner is satisfied that the making of the order is appropriate in the circumstances.
- (2) A gambling provider may make a barring order in relation to a person—
- (a) at the request of that person; or
 - (b) if—
 - (i) the person is behaving in a manner that indicates that the person is at risk of harm, or is at risk of causing harm to a family member of the person, because of gambling; and
 - (ii) the gambling provider is satisfied that the making of the order is appropriate in the circumstances.
- (3) If no decision is made within 14 days after the making of a request by a person under subsection (1)(a) or (2)(a), the Commissioner or the gambling provider (as the case may be) will be taken, for the purposes of this Part, to have made a decision to refuse the request.
- (4) A barring order made under this section—
- (a) must be in a form determined by the Commissioner; and
 - (b) may relate to—
 - (i) the premises of 1 gambling provider; or
 - (ii) the premises of several gambling providers up to a number of premises determined by the Commissioner; or
 - (iii) premises of a class determined by the Commissioner; and
 - (c) may be made for a period specified in the order or for an unlimited period; and
 - (d) subject to this Part, remains in force during the period specified in the order.
- (5) To avoid doubt, a barring order made in relation to premises may relate to parts of the premises where gambling activities are not undertaken (provided that the order also relates to parts of the premises where gambling activities are or may be undertaken).

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- (6) A barring order made at the request of the barred person may specify a minimum period during which the order must remain in force being—
 - (a) in the case of an order made by the Commissioner—not greater than 12 months; and
 - (b) in any other case—not greater than 3 months.
 - (7) If a gambling provider makes a barring order or receives a request to make a barring order, the provider must—
 - (a) make a record of the order or request in a manner and containing the particulars required by the Commissioner; and
 - (b) within 7 days after making the order or making a decision to refuse the request, notify the Commissioner of the order or decision (in a manner, and containing the particulars, required by the Commissioner).

Maximum penalty: \$2 500.

45—Variation or revocation of barring order

- (1) The Commissioner may make an order varying or revoking a barring order under this Part at any time (provided that, in a case where the order was made at the request of the barred person, the order may not be revoked, or be varied so as to limit in any way its application, unless it has been in force for the prescribed minimum period).
- (2) Before making an order under this section, the Commissioner may request information from the barred person as may be relevant to the making of the order.
- (3) An order made under this section must be in a form determined by the Commissioner.
- (4) In this section—

prescribed minimum period, in relation to a barring order at the request of the barred person, means—

- (a) if a minimum period is specified in the order—that period; or
- (b) if a minimum period is not specified in the order—
 - (i) in relation to a barring order made by the Commissioner—12 months; or
 - (ii) in any other case—3 months.

46—Notice of barring order etc

- (1) A barred person must be given notice of a barring order, or an order varying or revoking a barring order, under this Part.
- (2) A notice required to be given under subsection (1) must include any particulars prescribed by the regulations.
- (3) A barring order, or an order varying a barring order, is of no effect unless notice of the order has been given to the barred person in accordance with this section.
- (4) The Commissioner must give notice of a barring order made by the Commissioner under this Part, and of any variation or revocation of the order, to the owner or occupier of each place to which the order relates.

- (5) If the Commissioner obtains a photograph of the barred person, the Commissioner may also give a copy of that photograph to the owner or occupier of each place to which the order relates.

47—Contravention of barring order

- (1) A barred person who contravenes or fails to comply with a barring order is guilty of an offence.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (2) A gambling provider, or another person of a class prescribed by the regulations, who suffers or permits a contravention of a barring order is guilty of an offence.
Maximum penalty: \$10 000.
Expiation fee: \$1 200.
- (3) It is a defence to a charge of an offence against subsection (2) for the defendant to prove that the defendant took reasonable steps to prevent the commission of the offence.
- (4) For the purposes of disciplinary or enforcement action under Part 5, it will be taken to be a condition of the relevant authorisation (within the meaning of that Part) that the gambling provider must not suffer or permit a contravention of a barring order (subject to the defence specified in subsection (3)).

48—Reconsideration of barring order by Commissioner

- (1) A person who is affected by a decision to make, or refuse to make a barring order under this Part, may apply to the Commissioner to undertake a reconsideration of the decision.
- (2) An application to the Commissioner under this section must—
- (a) be made in a manner, and contain the particulars, required by the Commissioner; and
 - (b) be lodged with the Commissioner within 14 days after the date of the decision (or such longer period as the Commissioner may allow in the circumstances).
- (3) On reconsidering a decision under this section, the Commissioner—
- (a) may undertake consultation (in such manner as the Commissioner thinks fit) with any person involved with, or affected by, the making of the decision; and
 - (b) may confirm, vary, revoke or reverse the decision; and
 - (c) may make any recommendations to persons involved with, or affected by, the making of the decision that the Commissioner thinks appropriate in the circumstances.
- (4) If the Commissioner has not completed reconsidering a decision within 8 weeks after the day on which the application under this section was made, the Commissioner will be taken to have confirmed the decision.
- (5) The reconsideration of a decision in relation to a barring order under this section—
- (a) does not affect the operation of the barring order while the reconsideration is being undertaken; and

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- (b) does not prevent the making of another barring order in relation to the barred person.

49—Powers to remove etc

- (1) If a person who is an authorised person in relation to a place suspects on reasonable grounds that a person who is in, or who is entering or about to enter, that place is barred from that place or barred from taking part in specified gambling activities that are engaged in at that place by order under this Part, the authorised person may require the person to leave the place.
- (2) If a person refuses or fails to comply with a requirement under subsection (1), an authorised person may remove the person from the place.
- (3) The regulations may prescribe procedures to be observed by authorised persons (other than police officers) in or in connection with the exercise of powers under this section.
- (4) An authorised person must comply with the procedures (if any) prescribed under subsection (3).

Maximum penalty: \$2 500.

50—Liability

A decision of a gambling provider or an authorised person to exercise or not to exercise powers under this Part, or a failure of a gambling provider or an authorised person to exercise such powers, does not give rise to any liability of the gambling provider or authorised person to pay damages or compensation to any person.

51—Delegation

- (1) A gambling provider may delegate a power or function under this Part to an employee or agent of the gambling provider.
- (2) A delegation—
 - (a) must be by instrument in writing; and
 - (b) may be unconditional or subject to conditions; and
 - (c) does not derogate from the power of the gambling provider to act personally in any matter; and
 - (d) may be revoked at any time by the gambling provider.

52—Register

The Commissioner must maintain a register containing—

- (a) the prescribed particulars of—
 - (i) barring orders; and
 - (ii) requests for barring orders that are refused; and
 - (iii) problem gambling family protection orders referred to in section 13(3) of the *Problem Gambling Family Protection Orders Act 2004*; and
- (b) any information required to be included in the register under another Act; and

- (c) any other information that, in the opinion of the Commissioner, is relevant to barring or exclusion of persons from gambling activities or venues (on welfare or any other grounds).

53—Winnings of barred person

- (1) A gambling provider may withhold winnings from a person if satisfied that the person is subject to a barring order under this Part, and in that event, must obtain the person's name and address and inform them of the right to have the decision reviewed.
- (2) A person who is aggrieved by a decision to have their winnings withheld may, within 14 days of being informed of the decision under subsection (1), apply to the Commissioner for a review of the decision.
- (3) The Commissioner may confirm or revoke the decision and the Commissioner's decision on the matter is not reviewable.
- (4) A gambling provider must deal with any winnings withheld under subsection (1) as follows:
 - (a) if the Commissioner revokes a decision made under subsection (1), the withheld winnings must be paid to the person;
 - (b) if the Commissioner upholds a decision under subsection (1) or if the person does not apply to the Commissioner for a review of the decision under subsection (2), the withheld winnings are forfeited to the Commissioner and must be paid into the Gamblers Rehabilitation Fund established under section 73BA of the *Gaming Machines Act 1992*.

Part 7—Review

54—Right of review

- (1) A person who is dissatisfied with a decision of the Commissioner under Part 5 of this Act may, within 30 days after receiving notice of the decision, apply to the Court for a review of the decision.
- (2) A person who is dissatisfied with a decision of the Commissioner under the *Authorised Betting Operations Act 2000* may, within 30 days after receiving notice of the decision, apply to the Court for a review of the decision.
- (3) A person who is dissatisfied with a decision of the Commissioner under the *Casino Act 1997* may, within 30 days after receiving notice of the decision, apply to the Court for a review of the decision.
- (4) A party to proceedings before the Commissioner under the *Gaming Machines Act 1992* who is dissatisfied with a decision or order made or given in the proceedings may apply to the Court for a review of the decision or order.
- (5) For the purposes of subsection (4), the following provisions apply:
 - (a) the transferor of a gaming machine licence is a party to any proceedings relating to the transfer of the licence;
 - (b) a person who has made a written submission in respect of an application under the *Gaming Machines Act 1992* is entitled to be joined as a party to any proceedings relating to the application.

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- (6) On a review under this section, the Court may exercise any 1 or more of the following powers:
- (a) affirm, vary or quash the decision or order subject to the review;
 - (b) make any decision or order that should, in the opinion of the Court, have been made in the first instance;
 - (c) refer a matter back to the decision-maker for rehearing or reconsideration;
 - (d) make any incidental or ancillary order.
- (7) If the reasons of the Commissioner are not given in writing at the time of making a decision and the person who is dissatisfied with the decision, within 30 days after receiving notice of the decision, requires the Commissioner to state the reasons in writing, the time for applying for a review of the decision runs from the time when the person receives the written statement of those reasons.
- (8) No right of appeal lies against a decision or order of the Court on a review under subsection (4).

55—Operation of decisions pending review

- (1) Subject to subsection (2), a decision, order or direction in relation to which a right of review exists continues to operate despite that right of review or the commencement of review proceedings.
- (2) The Commissioner or the Court may—
- (a) suspend the operation of a decision, order or direction in relation to which an application for review has been made or is proposed; or
 - (b) make any other order or direction that may be appropriate in the circumstances.

56—Finality of Governor's decisions

A decision by the Governor under a gambling Act is not subject to review or appeal in any court.

Part 8—Gambling Advisory Council

57—Gambling Advisory Council

- (1) The *Gambling Advisory Council* established under Part 2A of the *Gambling Administration Act 1995* continues.
- (2) The Gambling Advisory Council consists of—
- (a) the Commissioner or a nominee of the Commissioner; and
 - (b) the following members, appointed, from time to time, by the Commissioner on terms and conditions determined by the Commissioner:
 - (i) a nominee of the welfare agency;
 - (ii) such other members as the Commissioner thinks appropriate so as to be representative of charitable, gambling support or social welfare organisations, the gambling industry and government.

- (3) The functions of the Gambling Advisory Council are—
- (a) to assist the Commissioner in formulating, and advise the Commissioner on implementing, policies and legislative proposals affecting—
 - (i) the minimisation of harm caused by (and associated with) gambling, recognising the positive and negative impacts of gambling on communities; and
 - (ii) the maintenance of a socially responsible gambling industry; and
 - (b) to provide a forum for the exchange of information and views between industry, welfare and government sectors concerning issues relating to responsible gambling and harm-minimisation practices; and
 - (c) to consider other matters referred to the Gambling Advisory Council by the Commissioner.

58—Proceedings

The procedures to be observed by the Gambling Advisory Council in relation to the conduct of its business will be—

- (a) as determined by the Commissioner; or
- (b) insofar as a procedure is not determined under paragraph (a)—as determined by the Gambling Advisory Council.

59—Use of staff and facilities

The Gambling Advisory Council may, by agreement with the Minister responsible for an administrative unit in the Public Service, make use of the services of the staff, equipment or facilities of that administrative unit.

60—Committees

- (1) The Gambling Advisory Council may establish such committees as it thinks fit to assist it in the performance of its functions.
- (2) The membership of a committee will be determined by the Gambling Advisory Council and may, but need not, consist of or include members of the Gambling Advisory Council.
- (3) The procedures to be observed by a committee in relation to the conduct of its business will be—
 - (a) as determined by the Gambling Advisory Council; or
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

Part 9—Miscellaneous

61—Annual report

- (1) The Commissioner must, on or before 30 September in each year, prepare and submit to the Minister a report on the performance of the Commissioner's functions under the gambling Acts during the preceding financial year.

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- (2) A report of the Commissioner required under this section may be combined with a report of the Commissioner required under any other Act (provided that such reports relate to the same period).
 - (3) The Commissioner's report must include the following information:
 - (a) the total net State wagering revenue of all authorised betting operators under the *Authorised Betting Operations Act 2000* in respect of the financial year to which the report relates;
 - (b) the total net gambling revenue of the holders of all gaming machine licences and the special club licence under the *Gaming Machines Act 1992* in respect of the financial year to which the report relates.
 - (4) The Minister must, within 12 sitting days after receiving the Commissioner's report, have copies of the report laid before both Houses of Parliament.

62—Prohibition on participation in gambling

- (1) The Commissioner, and any person of a class prescribed by the regulations, must not engage in a gambling activity to which the Commissioner's statutory responsibilities extend.

Maximum penalty: \$10 000.

- (2) In this section—

Commissioner means the person for the time being holding or acting in the office of the Liquor and Gambling Commissioner under the *Liquor Licensing Act 1997*.

63—False or misleading statements

A person who knowingly makes a false or misleading statement in response to a requirement under a gambling Act is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

64—Evidence

- (1) In proceedings for an offence against a gambling Act, information that a person was or was not at a specified time an inspector will be accepted as proved in the absence of proof to the contrary.
- (2) In any legal proceedings, a document apparently certified by the Commissioner to be a licence, agreement, approval, notice or other document issued or made under a gambling Act, or to be a copy of such a document, will be accepted as such in the absence of proof to the contrary.

65—Service

- (1) A notice or document required to be given or sent to a person under a gambling Act may—
 - (a) be given to the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) at any address for service provided by the person; or

- (c) be left for the person with someone apparently over the age of 16 years at any address for service provided by the person; or
 - (d) be transmitted by email to an email address provided by the person (in which case the notice or document will be taken to have been given or sent at the time of transmission).
- (2) If, under any Act or law, a gambling provider or person is a party to an arrangement, or is subject to a requirement, that the gambling provider or person be given notices or documents by the Commissioner in a manner not specified in subsection (1), a notice or document required to be given to the gambling provider or person by the Commissioner under a gambling Act may be given in that manner (or may be given in a manner specified in subsection (1)).
- (3) This section does not apply to a notice or document required or authorised by a provision of Part 3B of the *Authorised Betting Operations Act 2000*, or a provision of the *Taxation Administration Act 1996* as it applies to Part 3B of that Act, to be given to, served on or lodged with the Commissioner of State Taxation or any other person.

Note—

Service of such notices or documents will be governed by the *Taxation Administration Act 1996*.

66—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) prescribe and provide for the payment of fees and provide for the waiver of or any exemptions from fees; and
 - (b) provide for a penalty, not exceeding \$10 000, for a contravention of, or failure to comply with, any regulation; and
 - (c) provide for an expiation fee, not exceeding \$750, for an alleged contravention of, or failure to comply with, any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) make provisions of a saving or transitional nature consequent on the enactment of any amendments to this Act or on the commencement of specified provisions of this Act or on the making of regulations under this Act; and
 - (d) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Commissioner or another person.

Schedule 1—Repeal, savings and transitional provisions etc

1—Interpretation

In this Schedule—

gambling provider includes the State Lotteries Commission;

relevant day means the day on which clause 3 commences.

2—Repeal

The *Gambling Administration Act 1995* is repealed.

3—Transitional and other provisions

- (1) If an inquiry being conducted by the Commissioner under section 13 of the *Gambling Administration Act 1995* (as in force before the relevant day) has not been completed before the relevant day, the inquiry may be continued and completed by the Commissioner as if it had been commenced under section 7 of this Act.
- (2) A direction given by the Commissioner to a gambling provider pursuant to a gambling Act (as in force before the relevant day) may be enforced, after the relevant day, as if it had been given under section 10 of this Act.
- (3) A barring order in force under Part 4 of the *Gambling Administration Act 1995* immediately before the relevant day, continues in force as if it had been made under Part 6 of this Act.
- (4) If a review of a barring order under section 15G of the *Gambling Administration Act 1995* (as in force before the relevant day) has not been completed before the relevant day, the review may be continued and completed by the Commissioner as if it had been commenced as a reconsideration under section 48 of this Act.
- (5) If a reconsideration of a decision by the Commissioner under section 15H of the *Gambling Administration Act 1995* (as in force before the relevant day) has not been completed before the relevant day, the reconsideration may be continued and completed by the Commissioner as if it had been commenced under section 48 of this Act.
- (6) The register maintained by the Commissioner under section 15M of the *Gambling Administration Act 1995* (as in force before the relevant day) continues as the register maintained by the Commissioner under section 52 of this Act.
- (7) An advertising code of practice or a responsible gambling code of practice made and in force under a gambling Act immediately before the relevant day, continues in force as if it had been made under section 15 of this Act.
- (8) Disciplinary action commenced but not finally determined under a gambling Act before the relevant day may be continued and completed under Part 5 of this Act.
- (9) A person who is appointed as an inspector or is an authorised officer under a gambling Act immediately before the relevant day, will, on the commencement of Part 4 of this Act, be taken to be appointed as an inspector under that Part.

- (10) Any thing seized and retained by an authorised officer or the Commissioner under a gambling Act before the relevant day may, after the relevant day, be dealt with under section 32 of this Act.
- (11) A review commenced but not finally determined by the Court under a gambling Act before the relevant day may be continued and completed under Part 7 of this Act and the Court or the Commissioner may make a determination in accordance with section 55 of this Act pending the determination of review proceedings.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2019	42	<i>Gambling Administration Act 2019</i>	12.12.2019	3.12.2020 (<i>Gazette 30.7.2020 p4103</i>)
2019	41	<i>Lotteries Act 2019</i>	12.12.2019	Sch 1 (cll 12 & 15)—uncommenced