

South Australia

# Gaming Machines Act 1992

An Act to provide for and regulate the supply and operation of gaming machines; and for other purposes.

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#### Legislative history

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### The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Gaming Machines Act 1992*.

### 3—Interpretation

- (1) In this Act, unless the contrary intention appears—

***advanced problem gambling intervention training*** means a course of training recognised under section 10B(1)(b) as advanced problem gambling intervention training;

***advertising code of practice***—see section 10A(1)(d);

***approved*** means approved by the Commissioner under this Act;

***approved crowd controller*** means a person approved under Part 4 Division 10A of the *Liquor Licensing Act 1997* to act as a crowd controller for licensed premises, but does not include a person whose approval has been revoked or suspended;

***approved gaming machine*** means a gaming machine of a class approved by the Commissioner for the purposes of this Act;

***approved gaming machine employee*** in relation to the gaming operations conducted on licensed premises means a person who is approved under Part 4 as a gaming machine employee in respect of those operations;

***approved gaming machine manager*** in relation to the gaming operations conducted on licensed premises means—

- (a) a person who is approved under Part 4 as a gaming machine manager in respect of those operations; or

- (b) a natural person who is a licensee, or a director or member of the governing body of a licensee, in respect of the premises;

**approved gaming machine technician** means a person approved under Part 4 as a gaming machine technician for the holder of a gaming machine service licence;

**Authority** means the Independent Gambling Authority established under the *Independent Gambling Authority Act 1995*;

**authorised officer** means—

- (a) the Commissioner; or  
(b) an inspector; or  
(c) a police officer;

**authorised person**, in relation to premises to which a gaming machine licence relates, means—

- (a) the licensee; or  
(b) a responsible person for the licensed premises; or  
(c) an approved gaming machine manager or approved gaming machine employee for the licensed premises; or  
(d) an inspector; or  
(e) a police officer; or  
(f) an approved crowd controller;

**beneficiary** includes an object of a discretionary trust;

**cash facility** means—

- (a) an automatic teller machine; or  
(b) an EFTPOS facility; or  
(c) any other facility, prescribed by the regulations, that enables a person to gain access to his or her funds or to credit;

**category A, B, C or D offence**—see section 10A(3);

**certificate** means a proposed premises certificate or a social effect certificate;

**club licence** means a club licence under the *Liquor Licensing Act 1997*;

**Club One** means the body holding the special club licence (see section 24A);

**the Commissioner** means the Liquor and Gambling Commissioner;

**the 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;

**domestic partner** means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

***gaming area*** means that part of licensed premises that is delineated under a gaming machine licence as the area within which gaming machines may be operated pursuant to the licence;

***gaming equipment*** means any of the following for use in connection with a gaming machine—

- (a) electronic monitoring equipment; and
- (b) prescribed security devices; and
- (c) any other prescribed equipment;

***gaming machine*** means a device—

- (a) that is designed or has been adapted for the purpose of gambling by playing a game of chance or a game combined of chance and skill; and
- (b) and that is capable of being operated by the insertion of a coin or other token (whether in that device or another device to which it is linked) or by the electronic transfer of credits accrued on some other gaming machine;

***gaming machine entitlement*** means an entitlement to operate 1 gaming machine under a gaming machine licence;

***hotel licence*** means a hotel licence under the *Liquor Licensing Act 1997*;

***inspector*** means a person appointed as an inspector for the purposes of this Act;

***licence*** means a licence under this Act, and ***licensed*** and ***licensee*** have correlative meanings;

***linked jackpot equipment*** means any fitting or device to be used for, or in connection with, the linking of two or more gaming machines for the purpose only of recording all or part of the winnings from each of those machines;

***liquor licence*** means a hotel licence, club licence or special circumstances licence;

***mandatory provision***—see section 10A(3);

***non-profit association*** means incorporated association or some other kind of body corporate as to which the Commissioner is satisfied that profits cannot be returned to members or shareholders;

***officer***—an officer—

- (a) in relation to a body corporate—means a director or a member of the governing body of the body corporate;
- (b) in relation to a trust—means a trustee;

***prescribed gaming machine component*** means a component of a gaming machine of a class prescribed by the regulations for the purposes of this definition;

***proposed premises certificate***—see section 17A;

***responsible gambling agreement*** means an agreement in the form prescribed by the Authority under section 10A between a licensee and an industry body recognised by the Authority under section 10B;

***responsible gambling code of practice***—see section 10A(1)(e);

**responsible person** for licensed premises means a person who is, in accordance with section 97 of the *Liquor Licensing Act 1997*, responsible for supervising and managing the business conducted under the liquor licence in respect of the licensed premises;

**social effect certificate**—see section 17B;

**social effect inquiry**—see section 10A(1)(a);

**social effect principles**—see section 10A(1)(b);

**special circumstances licence** means a special circumstances licence under the *Liquor Licensing Act 1997*;

**spouse**—a person is the spouse of another if they are legally married;

**trust**—a trust is considered for the purposes of this Act as a single entity consisting of the trustees and the beneficiaries;

**trust or corporate entity** means a trust or a body corporate;

**variation of licence** means variation or revocation of conditions of licence or imposition of further conditions of licence.

- (2) A person occupies a position of authority in a trust or corporate entity if the person—
- (a) in the case of a body corporate—
    - (i) is a director or a member of the governing body of the body corporate;
    - (ii) exercises, or is in a position to exercise, control or substantial influence over the body corporate in the conduct of its affairs;
    - (iii) manages, or is to manage, the undertaking to be carried out under a licence;
    - (iv) if the body corporate is a proprietary company—is a shareholder in the body corporate; or
  - (b) in the case of a trust—is a trustee or beneficiary of the trust.
- (3) However—
- (a) a minor who is a shareholder in a proprietary company, or a beneficiary under a trust, is not for that reason to be regarded as a person occupying a position of authority; and
  - (b) a charitable organisation that is a beneficiary of a trust is not for that reason to be regarded as a person occupying a position of authority.

#### 4—Application of Act

- (1) This Act does not apply to or in relation to a gaming machine operated in the licensed casino under the *Casino Act 1997*.
- (1a) The Governor may, by regulation, apply provisions of this Act, with or without modification, to a person who is not required to hold a gaming machine licence because of a Commonwealth law as if the person holds a gaming machine licence.

- (2) Despite any other Act or law to the contrary, gaming and the possession, sale, supply or operation of a gaming machine, as authorised by this Act or a licence under this Act, are lawful.
- (3) Subject to any other provision of this Act to the contrary, this Act binds the Crown.

## **Part 2—Administration**

### **Division 1—The Commissioner**

#### **5—Commissioner responsible to Authority for scrutiny of operations under all licences**

The Commissioner is responsible to the Authority for the constant scrutiny of the operations under all licences (of all classes) under this Act.

#### **6—Procedural powers of the Commissioner**

- (1) The Commissioner may, for the purposes of proceedings before the Commissioner—
  - (a) by summons, require the attendance of a person before the Commissioner at a time and place specified in the summons; or
  - (b) by summons, require the production of any relevant equipment or other item, or any relevant books, papers or documents; or
  - (c) inspect any equipment, item, books, papers or documents so produced, retain them for such reasonable period as the Commissioner thinks fit and, in the case of books, papers or documents, make copies of any of them or of any of their contents; or
  - (d) require any person appearing before the Commissioner to make an oath or affirmation to answer truthfully all questions put by the Commissioner; or
  - (e) require any person appearing before the Commissioner to answer any question put by the Commissioner or by a person appearing before the Commissioner.
- (2) Subject to this section, a person who—
  - (a) having been served with a summons to appear before the Commissioner, fails, without reasonable excuse, to attend in obedience to the summons; or
  - (b) having been served with a summons to produce equipment or other items, or books, papers or documents, fails, without reasonable excuse, to comply with the summons; or
  - (c) refuses to be sworn or to affirm, or to answer any relevant question when required to do so by the Commissioner,

is guilty of an offence.

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

- (3) A person who appears as a witness before the Commissioner has the same protection as a witness in proceedings before the Supreme Court.

## **7—Conduct of proceedings**

- (1) In proceedings under this Act, the Commissioner—
  - (a) must act without undue formality; and
  - (b) is not bound by the rules of evidence but may inform himself or herself on any question that arises for decision in such manner as he or she thinks fit.
- (2) Subject to section 12, hearings before the Commissioner are open hearings.
- (3) The Commissioner must, subject to subsection (4), make a reasonable attempt to achieve, by conciliation, agreement between an applicant under this Act and any objectors in relation to the application and, if agreement is achieved between the parties, have regard to the agreement in determining the matter.
- (4) The requirement to conciliate does not arise—
  - (a) in relation to the Commissioner of Police if the Commissioner of Police lodges an objection; or
  - (b) in other circumstances that the Commissioner considers makes conciliation inappropriate.

## **7A—Powers to make interim or conditional decisions and accept undertakings from parties**

- (1) The Commissioner may—
  - (a) grant an application on an interim basis;
  - (b) specify that a condition of a licence, certificate or approval 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 he or she 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, certificate or approval is granted on a condition under subsection (2), the Commissioner may, on failure by the applicant to comply with the condition, revoke the licence, certificate or approval, or suspend the licence, certificate or approval 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.

## **8—Representation**

- (1) A party to proceedings before the Commissioner may appear in those proceedings—
  - (a) personally;
  - (b) by counsel;

- (c) if the party is a trust or corporate entity—by an officer or employee of the entity who has obtained leave of the Commissioner to appear on behalf of the entity;
  - (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 or the gaming machine industry or of employees in those industries—by an officer or employee of that association.
- (2) The Commissioner of Police may be represented in proceedings before the Commissioner—
- (a) by a police officer; or
  - (b) by counsel.

### **8A—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.

### **9—Power to disclose information to certain authorities**

The Commissioner may disclose information gained in the course of the administration of this Act to—

- (a) authorities vested with the administration of gaming machine laws in any other State or a Territory of the Commonwealth; and
- (b) any other authorities that may require the information for the purpose of discharging duties of a public nature; and
- (c) if the information is disclosed in a form that does not identify the person to whom it relates—any other person, or in any other way, the Commissioner (in the exercise of an unqualified discretion) considers appropriate in the public interest.

## **Division 2—Inspectors**

### **10—Appointment of inspectors**

- (1) There will be such number of inspectors as are necessary for the proper administration of this Act.
- (2) An inspector is a Public Service employee.
- (3) The Commissioner must provide each inspector with a certificate of identity and an inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under this Act, produce that certificate.

## Division 3—The Authority

### 10A—Principles, codes of practice etc

- (1) For the purposes of this Act, the Authority may, by notice in the Gazette, prescribe—
  - (a) an inquiry process that must precede an application for a social effect certificate or, if required by the Commissioner, a variation of a gaming machine licence (a *social effect inquiry*); and
  - (b) principles for assessing the social effect of the grant or variation of a gaming machine licence (*social effect principles*); and
  - (c) principles for assessing whether a game is likely to lead to an exacerbation of problem gambling; and
  - (d) an advertising code of practice; and
  - (e) a responsible gambling code of practice; and
  - (f) the form of a responsible gambling agreement.
- (2) Without limiting the generality of subsection (1)(e), the responsible gambling code of practice may—
  - (a) require the display of signs, and the provision of information at licensed premises relating to responsible gambling and the availability of services to address problems associated with gambling; and
  - (b) require gaming machine licensees to have a program for early intervention in problem gambling designed to promote—
    - (i) early identification of persons engaging in problem gambling, including through observation of the attendance patterns, 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 the barring procedures under this Act 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
  - (c) deal with the provision of training to staff relating to the early intervention program and generally to responsible gambling on gaming machines and the services available to address problems associated with gambling; and
  - (d) include other matters designed to reduce the incidence of problem gambling.
- (3) The Authority may include provisions in the advertising code of practice or the responsible gambling code of practice that—
  - (a) designate a provision of the code as a mandatory provision for the purposes of section 47; and

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- (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 section; 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 section.
  - (4) The Authority may, by subsequent notice in the Gazette, vary or revoke a notice under this section.
  - (5) Before the Authority publishes a notice in the Gazette under this section, the Authority must—
    - (a) give notice in writing of the proposed notice to a body representative of licensees; and
    - (b) consider any representations made by the body about the proposed notice within 28 days after the notice is given or a longer period allowed in the notice.
  - (6) A notice published in the Gazette under this section may come into operation on the day on which it is published or on a later day or days specified in the notice.
  - (7) Sections 10 and 10A of the *Subordinate Legislation Act 1978* apply to a notice published in the Gazette under this section as if it were a regulation within the meaning of that Act.
  - (8) The Authority must review the process, principles, codes and form prescribed under this section at least every 5 years.
  - (9) The Authority must seek and consider written submissions from a body representative of gaming machine licensees and from the public when conducting a review.

### **10B—Recognitions**

- (1) For the purposes of this Act, the Authority may, by notice in the Gazette, recognise—
  - (a) a person as an industry body with whom a licensee may enter into a responsible gambling agreement; and
  - (b) a course of training as advanced problem gambling intervention training.
- (2) The Authority may, by subsequent notice in the Gazette, withdraw a recognition under this section.
- (3) Before the Authority publishes a notice in the Gazette under this section, the Authority must—
  - (a) give notice in writing of the proposed notice to a body representative of licensees; and
  - (b) consider any representations made by the body about the proposed notice within 28 days after the notice is given or a longer period allowed in the notice.
- (4) If the Authority—
  - (a) refuses to recognise a person or a course under this section; or
  - (b) withdraws a recognition of a person or a course under this section,

the person or the provider of the course may apply to the Minister for a review of that decision.

- (5) The Minister may determine the application as the Minister thinks fit and, if the Minister finds in favour of the applicant, grant or preserve the recognition (as appropriate) and require the Authority to publish a notice in the Gazette accordingly.

### **11—Authority may give directions to licensees**

- (1) The Authority may, by notice in writing to the holder of a licence, give directions in relation to the carrying out of the undertaking under the licence.
- (2) A licensee must diligently observe and carry out a direction given under this section.  
Maximum penalty:
  - (a) in the case of an offence committed by the holder of the gaming machine monitor licence—\$50 000 or imprisonment for 4 years;
  - (b) in any other case—\$35 000 or imprisonment for 2 years.
- (3) A direction given under this Act to a licensee by the Commissioner is subject to a direction given by the Authority.

## **Division 4—Criminal intelligence**

### **12—Criminal intelligence**

- (1) No information provided by the Commissioner of Police to the Authority or the Commissioner 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) refuses an application for a licence, certificate, consent or approval, or takes or proposes to take disciplinary action against a licensee, or revokes or proposes to revoke an approval; and
  - (b) the decision to do so 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 to grant the application would be contrary to the public interest, or that it would be contrary to the public interest if the licensee were to continue to be licensed, or that it would be contrary to the public interest if the approval were to continue in force.

- (3) In any proceedings under this Act, the Commissioner—
  - (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) If the Commissioner of Police lodges an objection to an application under this Act because of information that is classified by the Commissioner of Police as criminal intelligence—
- (a) the Commissioner of Police is not required to serve a copy of the notice of objection on the applicant; and
  - (b) the Commissioner must, at least 7 days before the day appointed for the hearing of the application, advise the applicant in writing that the Commissioner of Police has objected to the application on the ground that to grant the application would be contrary to the public interest.
- (5) The Commissioner of Police may not delegate the function of classifying information as criminal intelligence for the purposes of this Act except to a Deputy Commissioner or Assistant Commissioner of Police.

## **Part 3—Licences**

### **Division 1—Classes of licence**

#### **14—Licence classes**

- (1) Licences under this Act are of the following classes:
- (a) gaming machine licence: subject to this Act and the conditions of the licence, a gaming machine licence authorises the licensee to possess approved gaming machines on premises designated in the licence and to conduct gaming on those machines;
  - (ab) special club licence: subject to the Act and the conditions of the licence, the special club licence authorises the licensee to possess approved gaming machines and to operate them on premises in respect of which someone else holds a gaming machine licence as agent of the holder of the gaming machine licence;
  - (b) gaming machine dealer's licence: subject to this Act and the conditions of the licence, a gaming machine dealer's licence authorises the licensee to manufacture gaming machines and prescribed gaming machine components and, under a contract in a form approved by the Commissioner, to sell or supply to the holder of a gaming machine licence or a gaming machine service licence, or to another holder of a gaming machine dealer's licence, approved gaming machines, prescribed gaming machine components and gaming equipment;
  - (d) gaming machine monitor licence: subject to this Act and the conditions of the licence, a gaming machine monitor licence authorises the licensee to provide and operate an approved computer system for monitoring the operation of all gaming machines operated pursuant to gaming machine licences under this Act;
  - (e) gaming machine service licence: subject to this Act and the conditions of the licence, a gaming machine service licence authorises the licensee to install, service and repair approved gaming machines, prescribed gaming machine components and gaming equipment in the course of a business carried on by the licensee.

- (2) There will be only—
- (a) 1 special club licence; and
  - (c) 1 gaming machine monitor licence.

## **Division 2—Special provisions relating to gaming machine licences**

### **15—Eligibility criteria**

- (1) The following persons only are eligible to hold a gaming machine licence:
- (a) the holder of a hotel licence (whether temporary or otherwise);
  - (b) the holder of a club licence, or two or more holders of separate club licences, jointly;
  - (c) the holder of a special circumstances licence (whether temporary or otherwise) if—
    - (i) —
      - the special circumstances licence was granted on the surrender of a hotel licence or a club licence; and
      - the nature of the undertaking carried out under the licence is substantially similar to that of a licensed hotel or club; or
    - (ii) the premises to which the special circumstances licence relates constitute—
      - a major sporting venue; or
      - the headquarters in this State for any particular sporting code,and the nature of the undertaking carried out under the licence is substantially similar to that of a licensed club.
- (1a) Club One is eligible to hold a gaming machine licence for particular premises if it holds a licence under the *Liquor Licensing Act 1997* in respect of the premises as required by subsection (1).
- (2) Subject to subsection (3a), the premises to which a liquor licence referred to in subsection (1) relates will be the licensed premises in respect of the gaming machine licence.
- (3) A person referred to in subsection (1) can hold only one gaming machine licence in respect of the premises to which the liquor licence relates.
- (3a) If two or more holders of separate club licences are, or are to be, the joint holders of a gaming machine licence, the following provisions apply:
- (a) none of the holders can hold, either solely or jointly, another gaming machine licence; and
  - (b) the jointly held licence can only relate to the premises of one of the clubs, being the premises nominated by the applicants.

- (4) A gaming machine licence will not be granted unless the applicant for the licence held a social effect certificate for the site of the premises in respect of which the licence is sought at the time of making the application for the licence.
- (5) A gaming machine licence will not be granted unless—
- (a) the applicant for the licence satisfies the Commissioner, by such evidence as the Commissioner may require—
    - (i) that the proposed gaming area, or gaming areas, within the premises in respect of which the licence is sought is or are suitable for the purpose; and
    - (ii) that the proposed layout of gaming machines in a gaming area is suitable for the proper conduct of gaming operations within the area; and
    - (iii) that the arrangements proposed for the security of the premises, each gaming area and the gaming machines, and of the gaming operations generally, are adequate; and
    - (iv) that the conduct of the proposed gaming operations on the premises would be unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises; and
    - (v) that the size of the proposed gaming operations on the premises would not be such that they would predominate over the undertaking ordinarily carried out on the premises; and
    - (vi) that the conduct of the proposed gaming operations on the premises would not detract unduly from the character of the premises, the nature of the undertaking carried out on the premises or the enjoyment of persons ordinarily using the premises (apart for the purpose of gaming); and
    - (vii) that no proposed gaming area is so designed or situated that it would be likely to be a special attraction to minors; and
    - (viii) that the proposed gaming area is within a place or area that is enclosed as defined by the *Tobacco Products Regulation Act 1997* (see section 4(3) and (4)); or
  - (b) the applicant holds a proposed premises certificate for the premises and satisfies the Commissioner, by such evidence as the Commissioner may require—
    - (i) that the conditions (if any) on which the certificate was granted have been complied with; and
    - (ii) that the premises have been completed in accordance with the plans approved in the certificate or a variation of those plans later approved by the Commissioner.

### **15A—Gaming venues not to be located under same roof as shops or within shopping complexes**

- (1) Despite any other provision of this Act, the Commissioner cannot after the commencement of this section grant an application for a gaming machine licence in respect of licensed premises, or grant any other application under this Act in respect of licensed premises that are subject to a gaming machine licence, if to do so would result in the licensed premises, or the whole or part of a gaming area of the licensed premises, being located—
  - (a) under the same roof as a shop, whether or not on the same level or floor as the shop; or
  - (b) anywhere within the boundaries of a shopping complex.
- (2) Subsection (1) applies only in respect of an application made after the commencement of this section (and any grant by the Commissioner of such an application will be taken to be void and of no effect).
- (3) Subsection (1) does not apply where the shop—
  - (a) is a part of the licensed premises set aside for the purpose of selling liquor in bottles to the public; or
  - (b) is intended primarily for the use of guests staying on the licensed premises.
- (4) For the purposes of subsection (1), licensed premises will be regarded as falling within the boundaries of a shopping complex if the land on which the premises are situated—
  - (a) formed part of the complex immediately prior to the granting of the development authorisation (or the first such authorisation if more than one) for the establishment of the licensed premises on the land; or
  - (b) shares a common boundary with the complex and the licensed premises are, in the opinion of the Commissioner, so linked to or integrated with the complex that they may properly be regarded as forming part of the complex.
- (5) In this section—

*shop* means a shop at which goods are sold to the public by retail;

*shopping centre* means a cluster of premises where—

- (a) at least one of the premises is a shop; and
- (b) the premises are located in the one building or in 2 or more buildings that are adjoining or are separated only by the grounds of the centre; and
- (c) the cluster of premises is promoted as, or generally regarded as constituting, a shopping centre, shopping mall, shopping court or shopping arcade;

*shopping complex* means a shop, or shopping centre, together with all parking and other areas adjacent and ancillary to, and intended primarily for the use of persons attending, the shop or shopping centre.

### **16—Number of gaming machines to be operated under licence**

- (1) A gaming machine licence authorises the licensee to possess and operate in the licensed premises a number of gaming machines equivalent to the number of gaming machine entitlements held in respect of the licensed premises (or a lesser number).

- (2) The number of gaming machine entitlements held in respect of particular licensed premises cannot exceed the maximum number approved by the Commissioner for operation under the gaming machine licence for the premises.
- (3) The Commissioner cannot approve more than 40 gaming machines for operation under a gaming machine licence.
- (4) If 2 or more gaming machine licences are in force in relation to the same licensed premises, the aggregate number of gaming machines approved for operation under the licences cannot exceed 40.
- (5) The Commissioner may grant to the holder or former holder of a gaming machine licence a temporary authorisation to possess (but not to operate) gaming machines if the authorisation is necessary or desirable to enable the orderly disposal of gaming machines the holder or former holder is no longer authorised to operate.

### **17—Plurality of licences**

- (1) More than one gaming machine licence may be held in respect of separate parts of the same premises where those parts are each subject to a separate liquor licence.
- (2) More than one gaming machine licence may be held by separate persons in respect of the same premises if—
  - (a) more than one club licence is held in respect of the premises; and
  - (b) the Commissioner is satisfied that each licensee will have sole control over the gaming machines owned by the club in respect of which he or she holds a club licence.

### **17A—Proposed premises certificate**

- (1) A proposed premises certificate approving plans submitted by the applicant for the certificate will not be granted unless—
  - (a) the applicant holds a social effect certificate for the site of the proposed premises; and
  - (b) the applicant satisfies the Commissioner, by such evidence as the Commissioner may require—
    - (i) that the requirements of section 15(5)(a) will be met in relation to the proposed premises if completed in accordance with the plans; and
    - (ii) that any approvals, consents or exemptions that are required under the law relating to development to permit the use of the proposed premises for the conduct of gaming operations have been obtained.
- (2) A proposed premises certificate must state the maximum number of gaming machines to be operated under the licence and may state conditions to which the licence should be subject.
- (3) A certificate granted under this section may, on notification to the Commissioner, be transferred to another person.
- (4) The Commissioner may, on application by the holder of a proposed premises certificate, approve a variation of the plans approved in the certificate.

### **17B—Social effect certificate**

- (1) A social effect certificate—
  - (a) may only be granted in relation to a specific site in which the applicant has a proprietary interest; and
  - (b) may not be granted if an application for a gaming machine licence in respect of licensed premises at the site could not be granted under section 15A; and
  - (c) subject to subsection (2), ceases to be in force 18 months after the date on which it is granted.
- (2) The Commissioner may, on application by the holder of a social effect certificate, extend the period for which the certificate remains in force if, in the Commissioner's opinion, it is appropriate to do so to enable—
  - (a) approvals, consents or exemptions for development on the site that are required under the law relating to development to be obtained; or
  - (b) development on the site that has been commenced to be completed.
- (3) A social effect certificate will only be granted if the applicant satisfies the Commissioner, by such evidence as the Commissioner may require, that the grant of a gaming machine licence in respect of premises on the site would not be contrary to the public interest on the ground of the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.
- (4) In assessing the social effect of the grant of a gaming machine licence, the Commissioner—
  - (a) must apply the social effect principles; and
  - (b) must not have regard to the economic effect that the granting of a gaming machine licence might have on the business of other licensed premises in the relevant locality (except insofar as that economic effect may be relevant to an assessment of the likely social effect of the grant of the licence on the local community); and
  - (c) must take each site in respect of which a social effect certificate is then in force into account as if a gaming machine licence were held for licensed premises on the site.
- (5) A certificate granted under this section may, on notification to the Commissioner, be transferred to another person with a proprietary interest in the site to which the certificate relates.
- (6) The Commissioner must—
  - (a) keep a register of social effect certificates; and
  - (b) cause the register to be published on a website to which the public has access free of charge.
- (7) The Commissioner must—
  - (a) record on the register for each social effect certificate—
    - (i) the name of the holder of the certificate; and
    - (ii) the date on which it was granted; and

- (iii) the site to which it relates; and
- (b) remove from the register any social effect certificate that has ceased to be in force.

### **Division 3—Applications, criteria and licence conditions**

#### **18—Form of application**

- (1) An application for a licence or a certificate—
  - (a) must be made in the prescribed manner and form (which may include requirements relating to consultation and reports);
  - (b) must be accompanied by the prescribed fee;
  - (ba) may, in the case of an application for a social effect certificate, be made only if a social effect inquiry has been completed;
  - (c) may, in the case of an application for a gaming machine licence, be made by a person who does not yet hold the requisite liquor licence but is an applicant for such a licence;
  - (d) may, in the case of an application for a proposed premises certificate or a social effect certificate, be made by a person who does not yet hold the requisite liquor licence.
- (2) The Commissioner may allow an applicant to vary the application at any time before the determination of the application.
- (3) If the Commissioner allows an application to be varied pursuant to subsection (2), the Commissioner must cause the other parties to the application to be given notice of the variation a reasonable time before the hearing of the application.
- (4) An application for a gaming machine licence or a proposed premises certificate must be accompanied by a plan of the proposed licensed premises that delineates the gaming area or gaming areas within which the gaming machines are to be installed and the layout of the machines within each gaming area.
- (5) An applicant for the gaming machine monitor licence must submit with the application the specifications for the proposed monitoring system.
- (6) The Commissioner may require an applicant to produce to the Commissioner specified documents that are, in the Commissioner's opinion, relevant to the application.
- (7) The Commissioner may, on such conditions (if any) as he or she thinks fit, waive compliance with formal requirements relating to an application.

#### **19—Certain criteria must be satisfied by all applicants**

- (1) An applicant for a licence must satisfy the Commissioner by such evidence as the Commissioner may require—
  - (a) that the applicant is a fit and proper person to hold the licence; and
  - (b) if the applicant is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of the class sought in the application.

- (2) For the purpose of determining whether a person is a fit and proper person to hold a licence or to occupy a position of authority in a trust or corporate entity that holds a licence—
- (a) the Commissioner may cause the person's photograph and fingerprints to be taken; and
  - (b) the reputation, honesty and integrity (including the creditworthiness) of the person are matters to which consideration must be given; and
  - (c) the reputation, honesty and integrity of the person's known associates (including persons who are relatives) must also be considered.

## **20—Applications to be given to Commissioner of Police**

- (1) The Commissioner must give the Commissioner of Police a copy of each application for a licence.
- (2) As soon as reasonably practicable following receipt of an application under subsection (1), the Commissioner of Police—
- (a) must make available to the Commissioner information about criminal convictions; and
  - (b) may make available to the Commissioner other information to which the Commissioner of Police has access,
- relevant to whether the application should be granted.

## **21—Special criteria for gaming machine monitor licence**

An applicant for the gaming machine monitor licence must satisfy the Commissioner by such evidence as the Commissioner may require that the applicant has appropriate management and technical expertise.

## **22—Holder of monitor licence cannot hold other licences**

The holder of the gaming machine monitor licence cannot hold any other licence under this Act.

## **23—Minors not to hold licence etc**

- (1) A minor cannot—
- (a) hold a licence; or
  - (b) occupy a position of authority in a trust or corporate entity that holds a licence.

## **23A—Discretion to treat application for gaming machine licence as application for proposed premises certificate**

The Commissioner may treat an application for a gaming machine licence for proposed premises as if it were an application for a proposed premises certificate having regard to the extent to which the proposed premises are uncompleted.

## 24—Discretion to refuse application

- (1) Subject to this Act, the Commissioner has an unqualified discretion to refuse an application for a licence on any ground, or for any reason, that the Commissioner thinks fit.
- (2) The Commissioner should not grant an application as a matter of course without a proper inquiry into its merits (whether or not the Commissioner of Police has intervened in the proceedings or there are any objections to the application).
- (3) An application for a licence can only be granted if the Commissioner is satisfied that to grant the application would not be contrary to the public interest.

## 24A—Special club licence

- (1) The special club licence is to be granted to a body (referred to in this Act as *Club One*) that, on making due application for the licence, satisfies the Commissioner—
  - (a) that it is representative of a substantial number of clubs in the State; and
  - (b) that it has available to it the appropriate skills and expertise to operate gaming machines, and conduct gaming machine business.
- (2) The directors, or members of the board of management, of Club One must include the following:
  - (a) at least 1 person who is a lawyer of at least 3 years standing with experience in the club and gaming industry;
  - (b) at least 1 person who is a qualified accountant of at least 3 years standing with experience in the club and gaming industry;
  - (c) at least 1 person with experience in dealing with the issues of problem gambling and gambling addiction.
- (3) When Club One, in the exercise of its powers as the holder of the special club licence, has or operates gaming machines on the premises of some other person holding a gaming machine licence—
  - (a) Club One is to be regarded as an agent of the holder of the gaming machine licence; and
  - (b) Club One and the holder of the gaming machine licence are jointly and severally responsible to ensure compliance with the conditions of the gaming machine licence; and
  - (c) breach of a condition of the gaming machine licence is to be regarded as a breach by each licensee of a condition of their respective licences; and
  - (d) Club One and the holder of the gaming machine licence are jointly and severally responsible to ensure compliance with—
    - (i) the provisions of this Act regarding payment of gaming tax; and
    - (ii) the keeping of accounts and the furnishing of monthly returns.

- (4) A special club licence is subject to the following further conditions:
- (a) a condition requiring the holder of the licence to submit for the Commissioner's approval contracts or arrangements under which management services are to be provided, officers or employees engaged in senior management positions are to be remunerated or profits are to be shared with other licensees;
  - (b) a condition requiring the holder of the licence to provide a report to the Minister, no later than 30 September in each year, on the conduct of its financial affairs during the financial year ending on the previous 30 June, including reference to distribution of funds among community, sporting and recreational groups;
  - (c) other conditions determined by the Commissioner and specified in the licence.
- (5) The Minister must, within 12 sitting days of receiving the report referred to above, cause a copy of the report to be laid before each House of Parliament.

## **25—Independent Gaming Corporation**

- (1) The body corporate known as the *Independent Gaming Corporation* will, on due application being made and the Commissioner being satisfied as to the matters specified in sections 19 and 21, be granted the gaming machine monitor licence issued under this Act.
- (2) Nothing in this section will be taken to prevent the grant of the gaming machine monitor licence to some other person or authority in the event of the Independent Gaming Corporation not being granted the licence or, if it is granted the licence, in the event of the licence being surrendered or revoked pursuant to this Act.

## **26A—How licences are to be held**

- (1) A licence may be held jointly by two or more persons.
- (2) If a licence is held jointly by two or more persons, those persons are jointly and severally liable to any civil or criminal liability that attaches to the licensee under this Act.
- (3) If the trustee of a trust holds a licence for the purposes of a business conducted by the trustee under a trust—
- (a) the name of the trust is to be specified in the licence; and
  - (b) the trust is to be considered as an entity holding the licence jointly with the trustee.

## **27—Conditions**

- (1) The conditions to which a gaming machine licence will be subject are set out in Schedule 1.
- (2) The conditions to which the gaming machine monitor licence will be subject are set out in Schedule 2.
- (3) The Commissioner may grant any other licence under this Act subject to such conditions as he or she thinks fit and specifies in the licence.

- (7) In fixing (or varying) the hours during which gaming operations may be conducted pursuant to a gaming machine licence, the Commissioner—
- (a) cannot fix hours that are outside the hours during which the licensed premises are authorised to be open for the sale of liquor; and
  - (b) must ensure—
    - (i) that gaming operations cannot be conducted on the premises on Christmas Day or Good Friday; and
    - (ii) that at other times there are at least 6 hours in each 24 hour period (which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours) during which gaming operations cannot be conducted on the premises.

### **27AA—Variation of licence**

- (1) Subject to this section, the Commissioner may, by notice in writing addressed to the licensee, vary or revoke any condition of a licence or impose further conditions on the licence.
- (2) The Commissioner may exercise his or her powers under subsection (1) on his or her own initiative or on application by the licensee or the Commissioner of Police.
- (3) The Commissioner cannot revoke the statutory conditions of a licence and cannot vary them except in relation to those matters that are determinable by the Commissioner for the purposes of those conditions.
- (4) The Commissioner may require an applicant for variation of a gaming machine licence to complete a social effect inquiry if of the opinion that the variation of the licence in respect of the premises may significantly alter the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.
- (5) If an applicant is required to complete a social effect inquiry, the licence may not be varied unless the applicant satisfies the Commissioner, by such evidence as the Commissioner may require, that the variation of the licence in respect of the premises would not be contrary to the public interest on the ground of the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.
- (6) In assessing the social effect of the variation of a gaming machine licence, the Commissioner—
  - (a) must apply the social effect principles; and
  - (b) must not have regard to the economic effect that the variation of a gaming machine licence might have on the business of other licensed premises in the relevant locality (except insofar as that economic effect may be relevant to an assessment of the likely social effect of the variation of the licence on the local community); and
  - (c) must take each site in respect of which a social effect certificate is then in force into account as if a gaming machine licence were held for licensed premises on the site.

## **Division 3A—Gaming machine entitlements**

### **27A—Gaming machine entitlements**

- (1) On the commencement of this Division, the Commissioner is to assign to each licensee who holds a gaming machine licence gaming machine entitlements as follows:
  - (a) if—
    - (i) the Commissioner has approved the operation of 20 gaming machines or less under the licence; or
    - (ii) the Commissioner has approved the operation of more than 20 gaming machines under the licence and the licensee is a non-profit association,the Commissioner is to issue to the licensee a number of gaming machine entitlements equivalent to the number approved by the Commissioner; and
  - (b) if—
    - (i) the Commissioner has approved the operation of more than 20 but not more than 28 gaming machines under the licence; and
    - (ii) the licensee is not a non-profit association,the Commissioner is to issue 20 gaming machine entitlements to the licensee; and
  - (c) if—
    - (i) the Commissioner has approved the operation of more than 28 gaming machines under the licence; and
    - (ii) the licensee is not a non-profit association,the Commissioner is to issue to the licensee a number of gaming machine entitlements calculated by subtracting 8 from the approved number.
- (2) A gaming machine entitlement may be held only by—
  - (a) a licensee holding a gaming machine licence who has an approval from the Commissioner to operate on the licensed premises a number of gaming machines equal to or exceeding the number of gaming machine entitlements held by the licensee; or
  - (b) Club One.
- (3) The Commissioner must—
  - (a) keep a register of licensees holding gaming machine entitlements; and
  - (b) cause the register to be published on a website to which the public has access free of charge.
- (4) The Commissioner must record on the register—
  - (a) the number of gaming machine entitlements held by each licensee; and
  - (b) the premises to which the gaming machine entitlements relate.

**27B—Transferability of gaming machine entitlements**

- (1) A gaming machine entitlement is transferable as follows:
  - (a) if a gaming machine licence is transferred, the transferor may transfer together with the licence all gaming machine entitlements held by the transferor immediately before the transfer;
  - (b) a non-profit association that holds a gaming machine licence may transfer, absolutely or for a limited period, a gaming machine entitlement to Club One under an arrangement approved by the Commissioner;
  - (c) a non-profit association that holds a gaming machine licence may transfer, absolutely or for a limited period, a gaming machine entitlement to another licensed non-profit association, under an arrangement approved by the Commissioner, for the purpose of facilitating merger or amalgamation of gaming machine operations for the benefit of both non-profit associations;
  - (d) if a person is authorised by or under Part 3 Division 4A to carry on the business of a licensee, the licensee's gaming machine entitlements vest in the authorised person for the duration of the authorisation (and are not otherwise transferable during that period) but then revert to the person in whom they would (apart from this paragraph) have been vested;
  - (e) if a person holds a temporary licence under Part 3 Division 4A, the former licensee's gaming machine entitlements vest in the licensee for the duration of the temporary licence (and are not otherwise transferable during that period) but then—
    - (i) if the temporary licence is converted into an ordinary licence—vest on the conversion in the holder of the licence; or
    - (ii) if the temporary licence is not converted into an ordinary licence—revert to the person in whom they would (apart from this paragraph) have been vested;
  - (f) the holder of gaming machine entitlements may (subject to this section) sell 1 or more of the entitlements under the approved trading system.
- (2) The approved trading system is a system established by the regulations.
- (3) The regulations establishing the approved trading system may include the following:
  - (a) provisions dealing with the eligibility of intending sellers and purchasers to participate in the system;
  - (b) conditions and restrictions on the sale of gaming machine entitlements (such as, for example, a condition providing that a gaming machine entitlement formerly held by the holder of a particular type of liquor licence may only be purchased by the holder of a liquor licence of a similar type);
  - (c) provisions for allocating gaming machine entitlements that are available for purchase under the approved trading system between intending purchasers;
  - (d) a provision requiring the purchaser of a gaming machine entitlement to acquire and operate a gaming machine under the entitlement within a specified period and providing that, if the purchaser fails to do so, the entitlement is to lapse;

- (e) a provision requiring an intending seller of gaming machine entitlements to surrender a proportion of its entitlements to the Crown and prescribing how the Crown is to deal with entitlements so surrendered;
  - (f) a provision for the payment of a commission (not exceeding one-third of the purchase price) to the Crown on sale of a gaming machine entitlement under the approved trading system;
  - (g) a provision for the payment of fees by participants in the approved trading system;
  - (h) provisions dealing with any other aspect of the approved trading system.
- (4) Any commission on the sale of a gaming machine entitlement is to be paid into the Gamblers Rehabilitation Fund.
- (5) If a gaming machine entitlement relates to premises that are (or were) held by the licensee under a lease, the right to sell the entitlement under the approved trading system is qualified as follows:
- (a) if the lease is entered into after the commencement of this section, the lease may exclude or limit the right of sale;
  - (b) if the lease was entered into before the commencement of this section, the right may only be exercised if—
    - (i) all parties to the lease agree; or
    - (ii) the District Court, on application by the holder of the entitlement, determines that it is fair and equitable to authorise its sale and gives its authorisation accordingly.
- (6) If the District Court gives an authorisation under subsection (5)(b), it may exercise either or both of the following powers:
- (a) it may impose conditions, such as a condition that the proceeds of the sale be shared between the parties on a fair and equitable basis;
  - (b) it may make a consequential alteration to the terms of the lease.
- (7) If the holder of a gaming machine entitlement makes an application for an authorisation under subsection (5)(b) and, before the proceedings are determined—
- (a) the applicant is required under the terms of a lease to transfer the entitlement to someone else; or
  - (b) the entitlement vests in someone else on conversion of a temporary licence into an ordinary licence under Part 3 Division 4A,
- the District Court may order the sale of the entitlement under the approved trading system and the payment of the net proceeds of sale to the applicant or the division of the net proceeds of the sale between the applicant and another or others in proportions the District Court considers fair and equitable.
- (8) No liability to stamp duty arises in relation to a transfer of gaming machine entitlements under subsection (1)(b), (c) or (f) executed after the commencement of this subsection.

**27C—Premises to which gaming machine entitlements relate**

- (1) A gaming machine entitlement is to be issued for the licensed premises in respect of which the licensee to whom it is issued holds a gaming machine licence.
- (2) The following provisions apply on the transfer of a gaming machine entitlement:
  - (a) if the entitlement is transferred together with a gaming machine licence, it will upon transfer relate to the same licensed premises;
  - (b) if the entitlement is transferred by a non-profit association under an arrangement approved by the Commissioner, it will upon transfer relate to premises nominated in the arrangement;
  - (c) if the entitlement is sold under the approved trading system, it will relate to premises nominated by the purchaser and approved by the Commissioner as part of the trading process.
- (3) However, the Commissioner may approve the acquisition of gaming machine entitlements by Club One on the basis that the entitlements will be subsequently allocated to licensed premises with the Commissioner's approval.
- (4) The Commissioner may approve the re-allocation by Club One of gaming machine entitlements from 1 set of licensed premises to another (but gaming machine entitlements allocated to premises in respect of which Club One itself holds a gaming machine licence cannot be re-allocated under this subsection).
- (5) The Commissioner may approve the re-allocation by a licensee of gaming machine entitlements from 1 set of licensed premises (*premises A*) to another (*premises B*) if—
  - (a) the licensee has surrendered the gaming machine licence held in respect of premises A; and
  - (b) the licensee's liquor licence has been removed from premises A to premises B; and
  - (c) premises A and premises B are in the same locality (but this requirement does not apply where the licensee is a non-profit association).

**27D—Effect of this Division on obligations under a lease or mortgage**

If—

- (a) a lease, mortgage or related agreement was entered into before the commencement of this Division; and
- (b) the licensee is required by the lease, mortgage or related agreement to maintain a certain number of gaming machines in operation on the licensed premises; and
- (c) the number exceeds the number of gaming machine entitlements assigned to the licensee on the commencement of this Division,

the lease, mortgage or related agreement will be construed as if it required the licensee to maintain a number of gaming machines in operation on the licensed premises equivalent to the number of gaming machine entitlements assigned to the licensee on the commencement of this Division.

## **27E—Statement of Parliamentary intention with regard to gaming machine numbers**

It is Parliament's intention to make no further reduction in gaming machine numbers (beyond the reduction resulting from the implementation of this Division) before 30 June 2014.

## **Division 4—Transfer of licences**

### **28—Certain gaming machine licences only are transferable**

- (1) Where a hotel licence or special circumstances licence is transferred, any gaming machine licence held by the transferor may, with the consent of the Commissioner, be transferred to the transferee of the hotel or special circumstances licence.
- (1a) A gaming machine licence held by the holder of a club licence may, with the consent of the Commissioner, be transferred to that holder jointly with one or more other holders of separate club licences.
- (1b) A gaming machine licence is not transferable otherwise than under subsection (1) or (1a).
- (2) No other licence under this Act is transferable.
- (3) The Commissioner cannot consent to the transfer of a gaming machine licence unless—
  - (a) application for consent is made in the prescribed manner and form; and
  - (b) the application is accompanied by the prescribed fee; and
  - (c) each applicant satisfies the Commissioner, by such evidence as the Commissioner may require—
    - (i) that the applicant is a fit and proper person to hold the licence; and
    - (ii) if the applicant is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding such a licence.
- (4) For the purpose of determining whether a person is a fit and proper person to hold a licence or to occupy a position of authority in a trust or corporate entity that holds a licence—
  - (a) the Commissioner may cause the person's photograph and fingerprints to be taken; and
  - (b) the reputation, honesty and integrity (including the creditworthiness) of the person are matters to which consideration must be given; and
  - (c) the reputation, honesty and integrity of the person's known associates (including persons who are relatives) must also be considered.
- (5) An application under subsection (1) may be made by a person who is not yet the holder of a hotel licence or special circumstances licence but who is an applicant for the transfer of such a licence.

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- (6) The Commissioner may require an applicant for transfer to produce to the Commissioner specified documents that are, in the Commissioner's opinion, relevant to the application.
  - (7) A licensee cannot sell or assign the rights to carry on business in pursuance of a gaming machine licence to which subsection (1) refers unless the Commissioner has consented to the transfer of the licence to the purchaser or assignee in accordance with this section.
  - (8) Subsection (7) does not prevent a licensee from entering into a contract for the sale or assignment of those rights if the contract is subject to a condition precedent that the sale or assignment will not take effect unless and until the Commissioner has consented to the transfer of the licence to the purchaser or assignee in accordance with this section.
  - (9) Subject to subsection (10), where a gaming machine licence is transferred pursuant to this section, each transferee succeeds to the liabilities of the transferor under this Act.
  - (10) A transferee of a gaming machine licence is jointly and severally liable with the transferor for any gaming tax outstanding at the date of transfer, except for any such tax arising out of an intentional understatement of gross gaming turnover or net gambling revenue by the transferor.

#### **28AA—Applications to be given to Commissioner of Police**

- (1) The Commissioner must give the Commissioner of Police a copy of each application for consent under section 28.
- (2) As soon as reasonably practicable following receipt of an application under subsection (1), the Commissioner of Police—
  - (a) must make available to the Commissioner information about criminal convictions; and
  - (b) may make available to the Commissioner other information to which the Commissioner of Police has access,relevant to whether the application should be granted.

#### **28AAB—Discretion to grant or refuse application under section 28**

- (1) Subject to this Act, the Commissioner has an unqualified discretion to grant or refuse an application for consent under section 28 on any ground, or for any reason, that the Commissioner thinks fit.
- (2) The Commissioner should not grant an application for consent under section 28 as a matter of course without a proper inquiry into its merits (whether or not the Commissioner of Police has intervened in the proceedings or there are any objections to the application).
- (3) An application for consent under section 28 can only be granted if the Commissioner is satisfied that to grant the application would not be contrary to the public interest.

### **28A—Condition requiring payment of gaming machine surcharge**

If, on the Commissioner's consenting to the transfer of a gaming machine licence, any gaming machine surcharge payable under the *Stamp Duties Act 1923* in respect of the transfer of the business conducted under the licence has not been paid, it is a condition of the licence that the surcharge be paid within the period allowed under that Act.

### **Division 4A—Devolution of licensee's rights**

#### **28B—Devolution of licensee's rights**

- (1) If a licensee or 1 of 2 or more joint licensees dies—
  - (a) the executor of the will or the administrator of the estate; or
  - (b) a relative of the deceased acting with the permission of the Commissioner,may, for 1 month after the date of death or a longer period approved by the Commissioner, carry on business as the licensee or 1 of the licensees (as the case requires) under the licence.
- (2) If a licensee or 1 of 2 or more joint licensees becomes physically or mentally incapable of carrying on business under the licence—
  - (a) a person authorised or appointed by law to administer the licensee's affairs; or
  - (b) a relative of the licensee acting with the permission of the Commissioner,may, for 1 month after the commencement of the incapacity or a longer period approved by the Commissioner, carry on business as the licensee or 1 of the licensees (as the case requires) under the licence.
- (3) If a licensee ceases to occupy the licensed premises to which the licence relates, a landlord, mortgagee or other person acting with the permission of the Commissioner may, for a period of 1 month or a longer period approved by the Commissioner, carry on business as the licensee under the licence.
- (4) If a licence is surrendered or revoked, the Commissioner may, on application by a landlord, mortgagee or other person who satisfies the Commissioner that it stands to suffer loss in consequence of the surrender or revocation, grant a temporary licence—
  - (a) of the same class, and subject to the same conditions, as the licence that was surrendered or revoked; but
  - (b) subject to a condition that the licence will expire at the end of a term fixed by the Commissioner not exceeding 6 months.
- (5) An approval, permission or temporary licence may be granted under this section by the Commissioner—
  - (a) on the application of the person seeking it without hearing or inviting representations from any other person; and
  - (b) on conditions the Commissioner thinks fit.

- (6) A temporary licence under this section may be converted into an ordinary licence by revocation of the condition referred to in subsection (4)(b), but an application for revocation of such a condition must not be granted unless the Commissioner is satisfied—
- (a) that the person who is to hold the licence on revocation of the condition is a fit and proper person to hold a licence of the relevant class; and
  - (b) if that person is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of that class.

### **28C—Bankruptcy or winding up of licensee**

- (1) If a licensee becomes bankrupt or insolvent, the official receiver may carry on business as the licensee under the licence.
- (2) If a corporate licensee is being wound up or is under administration, receivership or official management, a person vested by law with power to administer the affairs of the body corporate may carry on business as the licensee under the licence.

### **28D—Notice to be given of exercise of powers under Division**

A person who exercises rights under this Division (except by prior permission of the Commissioner) must, within 7 days after starting to do so, give notice in writing of that fact to the Commissioner.

## **Division 5—Objections and intervention**

### **29—Certain applications require advertisement**

- (1) The following applications must be advertised in accordance with this section:
  - (a) an application for the grant of a gaming machine licence;
  - (ab) an application for the grant of a proposed premises certificate;
  - (ac) an application for the grant of a social effect certificate;
  - (ad) an application for the variation of a gaming machine licence if the applicant is required to conduct a social effect inquiry;
  - (b) an application for the transfer of a gaming machine licence;
  - (c) an application for the grant of a gaming machine dealer's licence;
  - (d) an application of any other class if the Commissioner so directs.
- (2) Where an application is required to be advertised, notice of the application, in the prescribed form, must—
  - (a) be published by the applicant—
    - (i) in a newspaper circulating generally throughout the State; and
    - (ii) in the case of an application in respect of a gaming machine licence, a proposed premises certificate or a social effect certificate—in another newspaper circulating in the area in which the licensed premises are, or are to be, situated; and
    - (iii) in the Gazette,

at least 28 days before the date fixed for the hearing of the application; and

- (b) in the case of an application in respect of a gaming machine licence, a proposed premises certificate or a social effect certificate, be served on the council under the *Local Government Act 1999* for the area in which the licensed premises are, or are to be, situated.
- (3) The Commissioner may, in an appropriate case, dispense with or modify a requirement of subsection (2).

### **30—Objections**

- (1) Where an application has been advertised under this Part, any person may, by notice in the prescribed form lodged with the Commissioner at least seven days before the day appointed for the hearing of the application, object to the application.
- (2) Subject to section 12, a copy of the notice of objection must be served by the objector on the applicant at least 7 days before the day appointed for the hearing of the application.
- (2a) However, the Commissioner may (in the Commissioner's absolute discretion) accept an objection even though it is lodged, or served on the applicant, out of time.
- (3) An objection may be made on behalf of an unincorporated association under this section by an agent duly appointed for the purpose.
- (4) An objection may be made on the ground that the grant of the application would be contrary to this Act, in that any one or more of the matters as to which the Commissioner is required by this Act to be satisfied before granting the application would not, in the opinion of the objector, be satisfied.
- (5) The Commissioner may allow a person who has made an objection to vary the objection at any time before the determination of the proceedings.
- (6) If the Commissioner allows an objection to be varied pursuant to subsection (5), the Commissioner must cause the parties to the proceedings to be given notice of the variation a reasonable time before the hearing of the proceedings.
- (7) An objector to an application is a party to proceedings on the application.

### **31—Intervention by Commissioner of Police**

- (1) The Commissioner of Police may intervene in any proceedings before the Commissioner on an application under this Part for the purpose of introducing evidence or making submissions and, in particular, may intervene on the question of—
  - (a) whether a person is a fit and proper person; or
  - (b) whether, if the application were to be granted, public disorder or disturbance would be likely to result; or
  - (c) whether to grant the application would be contrary to the public interest.
- (2) The Commissioner of Police is a party to any proceedings in which he or she has intervened.

## **Division 6—Suspension, revocation and surrender of licences and certificates**

### **32—Voluntary suspension**

The Commissioner may, on the application of a licensee, suspend the licence held by the licensee for such period as the Commissioner thinks fit.

### **32A—Surrender or revocation of social effect certificate**

- (1) The holder of a social effect certificate may, by notice in writing to the Commissioner, surrender the social effect certificate and the certificate will cease to be in force on acceptance by the Commissioner of the surrender.
- (2) The Commissioner cannot accept a surrender of a social effect certificate while there is an application before the Commissioner for a gaming machine licence in respect of premises on the site to which the certificate relates.
- (3) The Commissioner may, by notice in writing to the holder of a social effect certificate, revoke the certificate if satisfied that the holder has ceased to have a proprietary interest in the site to which the certificate relates.
- (4) The Commissioner must, before revoking a social effect certificate—
  - (a) give notice in writing to the holder of the certificate of the proposed revocation; and
  - (b) allow the holder a period of 21 days (or such longer period as the Commissioner may in any particular case allow) to show cause why the certificate should not be revoked.

### **33—Surrender**

- (1) A licensee may, by notice in writing addressed to the Commissioner, surrender his or her licence and the licence will cease to operate on acceptance by the Commissioner, by endorsement on the licence, of the surrender.
- (2) The surrender of a licence does not affect liabilities incurred by the licensee under this Act up to the date on which the licensee ceases to operate.
- (3) The Commissioner cannot accept a surrender of a gaming machine licence unless he or she is satisfied that all gaming machines have been removed from the premises to which the licence related.

### **34—Effect of surrender, suspension or revocation of liquor licence**

If a liquor licence held by a licensee under the *Liquor Licensing Act 1997* in respect of any premises is surrendered, revoked or suspended, any gaming machine licence held by that licensee in respect of those premises will be taken to have been surrendered or revoked, or suspended until the liquor licence comes back into operation, as the case may require.

### **35—Cessation of gaming machine monitor licence**

In the event of—

- (a) the gaming machine monitor licence being revoked, suspended or surrendered; or
- (b) the holder of that licence ceasing for any reason to carry on the undertaking authorised by the licence,

the Commissioner or a person authorised by the Commissioner for the purpose may—

- (c) enter the premises in which the monitor system is situated; and
- (d) take possession and assume control of the system; and
- (e) operate the system until such time as the suspension terminates, or a further licence is granted to some other person or authority, as the case may be.

## **Division 7—Disciplinary action against licensees**

### **35A—Interpretation**

In this Division—

*licensee* includes former licensee.

### **36—Cause for disciplinary action against licensees**

- (1) There is proper cause for disciplinary action against a licensee if the Commissioner is satisfied that—
  - (a) the licence was improperly obtained; or
  - (b) the licensee is not a fit and proper person to hold the licence; or
  - (c) in the case of a licensee 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 a licence; or
  - (d) the licensee has contravened or failed to comply with a provision of this Act or a condition of the licence; or
  - (da) the licensee has contravened or failed to comply with the advertising code of practice or the responsible gambling code of practice; or
  - (e) the licensee has been convicted of an offence against this Act; or
  - (f) the licensee has been convicted of an offence punishable by imprisonment; or
  - (g) the licensee has ceased to operate gaming machines on the premises the subject of a gaming machine licence; or
  - (h) it would be contrary to the public interest if the licensee were to continue to be licensed.

- (2) In determining whether there is proper cause for disciplinary action against a licensee under subsection (1), regard may be had to such evidence of the conduct (no matter when the conduct is alleged to have occurred) of the licensee or persons with whom the licensee associates (or has associated at any relevant time) as the Commissioner considers relevant, including information that existed at the time the licence was granted, regardless of whether that information was known or could have been made known to the Commissioner at that time.

### **36A—Inquiry**

- (1) The Commissioner may, of his or her own motion or on the complaint of the Commissioner of Police, hold an inquiry to determine whether there is proper cause for disciplinary action against a licensee.
- (2) The Commissioner must give the licensee and the Commissioner of Police at least 21 days' written notice of an inquiry under this section and, subject to section 12, afford the licensee and the Commissioner of Police a reasonable opportunity to call and give evidence, to examine and cross-examine witnesses, and to make submissions to the Commissioner.
- (3) If a party does not attend at the time and place fixed by the Commissioner for the commencement or resumption of proceedings under this section, the Commissioner may proceed to hear and determine the matter in the absence of the party.
- (4) On giving notice to a licensee under this section, the Commissioner may, in the same or a subsequent notice, suspend the licence pending determination of the disciplinary proceedings.

### **36B—Taking of disciplinary action against licensees**

- (1) If, on an inquiry, the Commissioner is satisfied there is proper cause for disciplinary action against a licensee, the Commissioner may take disciplinary action against the licensee by doing 1 or more of the following:
  - (a) administering a reprimand;
  - (b) adding to, or altering, the conditions of the licence;
  - (c) cancelling 1 or more gaming machine entitlements;
  - (d) suspending or revoking the licence;
  - (e) imposing a fine not exceeding \$20 000;
  - (f) if a licence is revoked—disqualifying the former licensee from being licensed or approved under this Act.
- (2) When the Commissioner revokes a licence, the Commissioner must determine whether all or any of the gaming machine entitlements held by the former licensee should be cancelled and, if so, cancel them accordingly.
- (3) The Commissioner may—
  - (a) direct that a disqualification is to apply permanently;
  - (b) direct that a suspension or disqualification is to apply—
    - (i) for a specified period; or
    - (ii) until the fulfilment of stipulated conditions; or

- (iii) until further order;
  - (c) direct that disciplinary action is to have effect at a specified future time or is to have effect at a specified future time unless stipulated conditions are fulfilled.
- (4) If—
- (a) a person has been found guilty of an offence; and
  - (b) the circumstances of the offence form, in whole or in part, the grounds for disciplinary action,
- the person is not liable to a fine under this section for conduct giving rise to the offence.
- (5) A fine imposed under this section may be recovered summarily.
- (6) When the Commissioner cancels gaming machine entitlements under this section, an equivalent number of entitlements may be offered for sale by the Crown under the approved trading system.
- (7) However, the Crown may only exercise its power of sale if the total number of gaming machine entitlements in force under this Act is less than a number calculated by subtracting 3 000 from the number of gaming machines approved for operation under this Act immediately before the commencement of section 27A.

## **Part 4—Approvals**

### **37—Commissioner may approve managers and employees**

- (1) The Commissioner may, on application by the holder of a gaming machine licence or the special club licence, approve a natural person as a gaming machine manager or a gaming machine employee for the purposes of the gaming operations conducted pursuant to that licence.
- (3) The Commissioner—
  - (a) cannot approve a person as a gaming machine manager or a gaming machine employee if the person is an employee of the holder of a gaming machine dealer's licence; and
  - (b) may, if he or she thinks it appropriate to do so, refuse to grant such an approval in respect of a person who provides services under contract to the holder of a gaming machine dealer's licence.

### **38—Commissioner may approve persons in authority**

The Commissioner may, on the application of a person who seeks to assume a position of authority in a trust or corporate entity that holds a licence, approve the assumption by that person of that position in the entity.

### **38A—Condition requiring payment of gaming machine surcharge**

If, on approval by the Commissioner of the assumption by a person of a position in authority in a trust or corporate entity that holds a gaming machine licence, any gaming machine surcharge payable under the *Stamp Duties Act 1923* in respect of a transaction related to the assumption by the person of the position has not been paid, it is a condition of the licence that the surcharge be paid within the period allowed under that Act.

### **38B—Commissioner may approve gaming machine technicians**

The Commissioner may, on application by the holder of a gaming machine service licence, approve a natural person as a gaming machine technician for the holder of the licence.

### **39—Approval of form of supply contract**

- (1) The Commissioner may, on application by the holder of a gaming machine dealer's licence, approve the form of a contract to be entered into by the holder of the licence and—
  - (a) the holder of a gaming machine licence; or
  - (b) the holder of a gaming machine service licence; or
  - (c) the holder of another gaming machine dealer's licence,for the sale or supply of approved gaming machines, prescribed gaming machine components or gaming equipment.
- (2) The Commissioner has an unqualified discretion to approve or refuse to approve the form of a contract except that the Commissioner must refuse to approve a form if, in the Commissioner's opinion, it would result in a contract that—
  - (a) is harsh and unconscionable; or
  - (b) provides for a payment by reference to the proceeds or profits of the business of a licensee; or
  - (c) provides for an inducement to enter the contract other than a discount based on the number of machines, components or items of equipment to be supplied; or
  - (d) may otherwise jeopardise the proper conduct of gaming operations.

### **40—Approval of gaming machines and games**

- (1) The Commissioner may, on application by a person, approve particular gaming machines, or particular games, to be of a class that is approved for the purposes of this Act.
- (3) If the Commissioner is of the opinion that the game the subject of the application is likely to lead to an exacerbation of problem gambling, the Commissioner must refuse the application.
- (4) In determining whether a game is likely to lead to an exacerbation of problem gambling, the Commissioner must apply the principles prescribed by the Authority under section 10A(1)(c).

#### **41—Commissioner may approve gaming tokens and gaming token manufacturers**

- (1) The Commissioner may, on application by a manufacturer of gaming tokens, approve the manufacturer for the purposes of this Act.
- (2) The Commissioner may, on application by a person, approve particular gaming tokens to be of a class that is approved for the purposes of this Act.

#### **41A—Applications to be given to Commissioner of Police**

- (1) The Commissioner must give the Commissioner of Police a copy of each application for approval made under this Part other than under section 39, 40 or 41.
- (2) As soon as reasonably practicable following receipt of an application under subsection (1), the Commissioner of Police—
  - (a) must make available to the Commissioner information about criminal convictions; and
  - (b) may make available to the Commissioner other information to which the Commissioner of Police has access,relevant to whether the application should be granted.

#### **42—Discretion to grant or refuse approval**

- (1) Subject to this Act, the Commissioner has an unqualified discretion to grant or refuse an application for approval on any ground, or for any reason, that the Commissioner thinks fit.
- (1a) An application for approval can only be granted if the Commissioner is satisfied that to grant the application would not be contrary to the public interest.
- (2) The Commissioner cannot approve a person as a gaming machine manager unless satisfied, by such evidence as he or she may require, that the person is a fit and proper person to carry out the duties of gaming machine manager.
- (3) The Commissioner cannot approve a person as a gaming machine employee unless satisfied, by such evidence as he or she may require, that the person is a fit and proper person to carry out prescribed duties.
- (3a) The Commissioner cannot approve a person as a gaming machine technician unless satisfied, by such evidence as he or she may require, that the person is a fit and proper person to personally perform the work of installing, servicing and repairing gaming machines.
- (4) The Commissioner cannot approve the assumption by a person of a position of authority in a trust or corporate entity that holds a licence unless satisfied, by such evidence as he or she may require, that the person is a fit and proper person to assume such a position.
- (6) In making a determination for the purposes of subsection (2), (3), (3a) or (4), the Commissioner may cause the person's photograph and fingerprints to be taken and must give consideration to—
  - (a) the reputation, honesty and integrity (including the creditworthiness) of the person; and

- (b) the reputation, honesty and integrity of the person's known associates (including persons who are relatives).

#### **42A—Advertisement of certain applications and objections**

- (1) An application for approval must, if the Commissioner so directs, be advertised by publication by the applicant of notice, in a form approved by the Commissioner, in a newspaper circulating generally throughout the State and in the Gazette at least 28 days before the date fixed for the hearing of the application.
- (2) If an application has been advertised under this section, any person may, by notice in the prescribed form lodged with the Commissioner at least 7 days before the day appointed for the hearing of the application, object to the application.
- (3) A copy of the notice of objection must be served by the objector on the applicant at least 7 days before the day appointed for the hearing of the application.
- (4) However, the Commissioner may (in the Commissioner's absolute discretion) accept an objection even though it is lodged, or served on the applicant, out of time.
- (5) An objection may be made on behalf of an unincorporated association under this section by an agent duly appointed for the purpose.
- (6) An objection may be made on the ground that the grant of the application would be contrary to this Act.
- (7) The Commissioner may allow a person who has made an objection to vary the objection at any time before the determination of the proceedings.
- (8) If the Commissioner allows an objection to be varied pursuant to subsection (7), the Commissioner must cause the parties to the proceedings to be given notice of the variation a reasonable time before the hearing of the proceedings.
- (9) An objector to an application is a party to proceedings on the application.

#### **43—Intervention by Commissioner of Police**

- (1) The Commissioner of Police may intervene in proceedings before the Commissioner on an application for approval under this Part other than under section 39, 40 or 41 for the purpose of introducing evidence or making submissions and, in particular, may intervene on the question of whether the person to whom the application relates is a fit and proper person or whether to grant the application would be contrary to the public interest.
- (2) The Commissioner of Police is a party to any proceedings in which he or she has intervened.

#### **44—Revocation of approval**

- (1) The Commissioner has an unqualified discretion to revoke an approval given under this Part on such ground or for such reason as he or she thinks fit.
- (2) The Commissioner must, before exercising powers under subsection (1) in relation to a person—
  - (a) give written notice to the person of the proposed revocation, including, subject to section 12, a statement of the reasons that the Commissioner considers justify the revocation; and

- (b) allow the person a period of 21 days (or such longer period as the Commissioner may in any particular case allow) to show cause why the approval should not be revoked.
- (3) The Commissioner may suspend an approval pending final determination of the question as to whether the approval should be revoked.
- (4) On revoking an approval, the Commissioner must cause notice of the revocation to be given, personally or by post, to all persons affected by the revocation.

## **Part 4A—Special provisions relating to licensed dealers**

### **44A—Prohibition of links between dealers and other licensees**

- (1) A person must not, at the one time—
  - (a) be the holder of both a gaming machine dealer's licence and a licence of some other class under this Act; or
  - (b) be the holder of a gaming machine dealer's licence and be associated with a licensee of some other class under this Act; or
  - (c) be the holder of a licence (other than a gaming machine dealer's licence) and be associated with the holder of a gaming machine dealer's licence; or
  - (d) be associated with both a licensed gaming machine dealer and a licensee of some other class under this Act.
- (2) The Commissioner must refuse an application for a licence or for any approval under this Act if the grant of the application would result in a contravention of subsection (1).
- (3) It is a ground for the Commissioner to exercise his or her powers under this Act to revoke or suspend any relevant licence or approval if a contravention of subsection (1) has occurred or is about to occur.
- (4) For the purposes of this section, a person is associated with a licensee—
  - (a) in the case of a licensee that is a body corporate, if—
    - (i) the person is a related body corporate (as defined in the *Corporations Act 2001* of the Commonwealth); or
    - (ii) the person occupies a position of authority in the body corporate;
  - (b) in the case of a licensee that is not a body corporate, if—
    - (i) the person manages, or is to manage, the undertaking to be carried out under the licence; or
    - (ii) the person is the spouse or domestic partner of the licensee; or
  - (c) in any case, if—
    - (i) the person is the partner or agent of the licensee; or
    - (ii) the person and the licensee have an agreement, arrangement or understanding under which one acts in accordance with the directions or wishes of the other, or they act in accordance with a pre-arranged pattern; or

- (iii) the person and the licensee have common employees or the employees of one provide services for the other; or
- (iv) the person and the licensee are trustees or beneficiaries of the same trust or one is a trustee and the other is a beneficiary of the same trust (a *trust* in this subparagraph being a trust that relates to the undertaking under a licence); or
- (iva) the person and the licensee are parties to an agreement or arrangement under which one participates in, or is remunerated or paid for something by reference to, the proceeds or profits of the business of the other; or
- (v) there is some other relationship or connection between the person and the licensee or any other person that could, in the opinion of the Commissioner, prejudice the proper operation of this Act or of the licensee's undertaking under the licence.

## Part 5—Offences

### Division 1—Offences relating to licences and approvals

#### 45—Offence of being unlicensed

A person must not—

- (a) have possession of a gaming machine on any premises; or
- (b) manufacture, sell or supply a gaming machine or a prescribed gaming machine component; or
- (c) sell or supply gaming equipment; or
- (d) install, service or repair a gaming machine, gaming equipment or a prescribed gaming machine component; or
- (e) provide a computer-based system for monitoring the operation of gaming machines,

without being licensed to do so.

Maximum penalty: \$35 000 or imprisonment for 2 years.

#### 46—Offence of breach of licence conditions

A licensee must not contravene or fail to comply with a condition of his or her licence.

Maximum penalty:

- (a) in the case of an offence committed by the holder of the gaming machine monitor licence—\$50 000 or imprisonment for 4 years;
- (b) in the case of an offence committed by the holder of a gaming machine licence—
  - (i) except in the case referred to in subparagraph (ii)—\$35 000 or imprisonment for 2 years;
  - (ii) if the offence is constituted of the contravention of or failure to comply with a condition imposed under Schedule 1(o)—\$10 000;

(c) in any other case—\$35 000 or imprisonment for 2 years.

Expiation fee: in the case of an offence allegedly committed by the holder of a gaming machine licence and constituted of the alleged contravention of or failure to comply with a condition imposed under Schedule 1(o)—\$1 200.

#### **47—Offence of breach of mandatory provisions of codes**

The holder of a gaming machine licence must not contravene or fail to comply with a mandatory provision of the advertising code of practice or the responsible gambling code of practice.

Maximum penalty:

- (a) for a category A offence—\$10 000;
- (b) for a category B offence—\$5 000;
- (c) for a category C offence—\$2 500;
- (d) for a category D offence—\$1 250.

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.

#### **47A—Offence of selling or supplying gaming machines, components or equipment without approved contract or with inducement**

- (1) The holder of a gaming machine dealer's licence must not enter into a contract to sell or supply a gaming machine, a prescribed gaming machine component or gaming equipment unless the contract is in a form that has been approved by the Commissioner under section 39.

Maximum penalty: \$35 000 or imprisonment for 2 years.

- (2) The holder of a gaming machine dealer's licence must not provide or offer to provide any form of inducement to a person to enter into a contract for the sale or supply of a gaming machine, a prescribed gaming machine component or gaming equipment other than a discount that is calculated on a basis that has been fully disclosed in the contract and depends on the number of machines, components or items of equipment to be supplied under the contract.

Maximum penalty: \$35 000 or imprisonment for 2 years.

#### **48—Offences relating to management of business or positions of authority**

- (1) If the gaming operations conducted on any premises pursuant to a gaming machine licence are supervised or managed by a person who is not an approved gaming machine manager in respect of those gaming operations, the licensee and the person are each guilty of an offence.

Maximum penalty: \$35 000 or imprisonment for 2 years.

- (2) If a person assumes a position of authority in a trust or corporate entity that holds a licence without the approval of the Commissioner, the licensee and the person are each guilty of an offence.

Maximum penalty: \$35 000 or imprisonment for 2 years.

#### **49—Offence related to employment in gaming areas**

If prescribed duties are carried out in connection with the gaming operations conducted on licensed premises by a person who is not—

- (a) an approved gaming machine manager in respect of those premises; or
- (b) an approved gaming machine employee in respect of those premises,

the licensee and the person are each guilty of an offence.

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

#### **50—Offence related to personal performance of work on gaming machines**

If the work of installing, servicing or repairing a gaming machine is personally performed on licensed premises by a person who is not—

- (a) the holder of a gaming machine service licence; or
- (b) approved as a gaming machine technician for the holder of a gaming machine service licence,

the licensee and the person are each guilty of an offence.

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

#### **50A—Approved gaming machine managers and employees must carry identification**

If an approved gaming machine manager or approved gaming machine employee does not, while carrying out his or her duties on the licensed premises, wear an identification card—

- (a) that is in the form approved by the Commissioner; and
- (b) that is clearly visible to other persons,

the licensee and the person are each guilty of an offence.

Maximum penalty:

- (a) in the case of an offence committed by a licensee—\$2 500;
- (b) in any other case—\$1 250.

Expiation fee:

- (a) in the case of an offence allegedly committed by a licensee—\$210;
- (b) in any other case—\$160.

## **51—Persons who may not operate gaming machines**

- (1) The holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence, or an approved gaming machine manager or approved gaming machine employee for any particular licensed premises, must not, except as is necessary for the purpose of carrying out his or her duties, operate a gaming machine on the licensed premises.

Maximum penalty:

- (a) in the case of an offence committed by the holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence—\$10 000 or imprisonment for 6 months;
- (b) in the case of an offence committed by an approved gaming machine manager or gaming machine employee—\$5 000.

Expiation fee: in the case of an offence allegedly committed by an approved gaming machine manager or gaming machine employee—\$315.

- (2) A person must not, within 28 days of ceasing to be the holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence, or to be an approved gaming machine manager or approved gaming machine employee in any particular licensed premises, operate a gaming machine on the licensed premises.

Maximum penalty:

- (a) in the case of an offence committed by the holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence—\$10 000 or imprisonment for 6 months;
- (b) in the case of an offence committed by an approved gaming machine manager or gaming machine employee—\$5 000.

Expiation fee: in the case of an offence allegedly committed by an approved gaming machine manager or gaming machine employee—\$315.

- (3) The holder of a gaming machine dealer's licence, or a person in a position of authority in a trust or corporate entity that holds such a licence, must not, except as is necessary for the purpose of carrying out duties pursuant to the licence, operate a gaming machine on any licensed premises.

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

- (4) The holder of the gaming machine monitor licence, an employee of such a licensee or a person in a position of authority in a trust or corporate entity that holds such a licence must not operate a gaming machine on any licensed premises.

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

- (4a) The holder of a gaming machine service licence or a person in a position of authority in a trust or corporate entity that holds such a licence, or an approved gaming machine technician for the holder of such a licence, must not, except as is necessary for the purpose of carrying out his or her duties, operate a gaming machine on any licensed premises.

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

- (5) The following persons must not, except as is necessary for the purposes of the administration of this Act, operate a gaming machine on any licensed premises:
- (a) the Commissioner;
  - (b) an inspector.

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

## **Division 2—Offences relating to conduct of gaming operations**

### **51A—Cash facilities not to be provided within gaming areas**

- (1) The holder of a gaming machine licence must not provide, or allow another person to provide, a cash facility within a gaming area on the licensed premises.
- Maximum penalty: \$35 000.
- (2) The Commissioner may, by instrument in writing, exempt a licensee who has, on the commencement of this section, a cash facility within a gaming area on the licensed premises from the operation of this section.
- (3) An exemption may be granted under subsection (2) only for such period as the Commissioner thinks necessary for the purpose of the removal of the cash facility from the gaming area and as is specified in the instrument of exemption.
- (4) The Minister may, if he or she thinks exceptional circumstances exist for doing so, exempt a licensee (conditionally or unconditionally) from the operation of this section.
- (5) A licensee who contravenes a condition of an exemption granted under subsection (4) is guilty of an offence.

Maximum penalty: \$35 000.

### **51B—Cash facilities withdrawal limit**

- (1) The holder of a gaming machine licence must not, on or after the prescribed day, provide, or allow another person to provide, cash facilities on the licensed premises that allow a person to obtain by means of those facilities, in any one transaction, on any one debit or credit card, an amount of cash that exceeds—
- (a) if the Commissioner has fixed a monetary limit in respect of the premises under this section—that limit;
  - (b) in any other case—
    - (i) the sum of \$200; or
    - (ii) if some other sum is prescribed by the regulations for the purposes of this section—that sum.

Maximum penalty: \$35 000.

- (2) The Commissioner may from time to time, by notice in writing to the licensee, fix a monetary limit for daily withdrawals on a debit or credit card from cash facilities on particular licensed premises that is higher than the limit applicable under subsection (1)(b), if the Commissioner thinks that good reason (eg, the location of the licensed premises) exists for doing so.

- (3) The holder of a gaming machine licence must not, on or after the prescribed day, provide, or allow another person to provide, cash facilities on the licensed premises that allow a person to obtain cash by means of those facilities more than once, on any one debit or credit card, on any one day.
- (4) In this section—
- prescribed day* means—
- (a) for the purposes of subsection (1)—the day falling 3 months after the commencement of this section;
  - (b) for the purposes of subsection (3)—a day fixed by proclamation.

## **52—Prohibition of lending or extension of credit**

- (1) The holder of a gaming machine licence—
- (a) who lends or offers to lend money to a person who is in or who is about to enter the licensed premises; or
  - (b) who allows a person to use a credit card or charge card for the purpose of paying for playing the gaming machines on the licensed premises or in circumstances where the holder could reasonably be expected to know that the use of the card is for that purpose; or
  - (c) who otherwise extends or offers to extend credit to any person for the purpose of enabling the person to play the gaming machines on the licensed premises or in circumstances where the holder could reasonably be expected to know that the credit is to be used for that purpose,

is guilty of an offence.

Maximum penalty: \$35 000 or imprisonment for 2 years.

- (2) If an approved gaming machine manager or an approved gaming machine employee—
- (a) lends or offers to lend money to a person who is in or who is about to enter the licensed premises; or
  - (b) allows a person to use a credit card or charge card for the purpose of paying for playing the gaming machines on the licensed premises or in circumstances where the manager or employee could reasonably be expected to know that the use of the card is for that purpose; or
  - (c) otherwise extends or offers to extend credit to any person for the purpose of enabling the person to play the gaming machines on the licensed premises or in circumstances where the manager or employee could reasonably be expected to know that the credit is to be used for that purpose,

the licensee and the manager or employee are each guilty of an offence.

Maximum penalty: \$35 000 or imprisonment for 2 years.

## **53—Prohibition of linked jackpots**

The holder of a gaming machine licence must not cause, suffer or permit any gaming machine on the licensed premises—

- (a) to be fitted with linked jackpot equipment; or

- (b) to be linked in any manner that allows the winnings, or part of the winnings, from the machine to accumulate with the winnings, or part of the winnings, from any other gaming machine.

Maximum penalty: \$35 000 or imprisonment for 2 years.

### **53A—Prohibition of certain gaming machine facilities**

- (1) The holder of a gaming machine licence must not provide any gaming machine on the licensed premises that is capable of being operated by means other than the insertion of a coin in the machine or in any linked device.

Maximum penalty: \$35 000.

- (2) The Governor may, by regulation, grant an exemption from subsection (1) for a specified period for the purposes of the conduct of a trial of a system designed to monitor or limit levels of gambling through the operation of gaming machines otherwise than by the insertion of coins.
- (3) Regulations made for the purposes of subsection (2) may make provision for the recording and reporting of data in connection with the trial.
- (4) A regulation under subsection (2) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either House of Parliament.
- (5) The Minister must, within 3 months after expiry of an exemption under subsection (2), cause a report to be laid before both Houses of Parliament about the conduct and results of the trial.
- (6) The holder of a gaming machine licence must not, on or after the prescribed day, provide any gaming machine on the licensed premises that is fitted with a device or mechanism designed to allow the playing of successive games by an automatic process.

Maximum penalty: \$35 000.

- (7) In this section—

*prescribed day* means the day falling 3 months from the commencement of subsection (6).

### **53B—Commissioner's directions to ensure security of gaming machines**

- (1) If—
- (a) gaming machines are left on licensed premises after the premises have been vacated by the licensee; or
  - (b) the Commissioner has any reason to believe that gaming machines on licensed premises are not adequately secured against unauthorised use or interference,

the Commissioner may give any directions, in writing, that the Commissioner considers are reasonably required to secure the machines against unauthorised use or interference.

- (2) The Commissioner may, for example, do either or both of the following:
- (a) direct the licensee to remove the machines to a secure storage location;

- (b) direct the holder of the gaming machine monitor licence to electronically disable the machines (and maintain its monitoring of the machines).
- (3) A person given a direction by the Commissioner under this section must not fail to comply with the direction.
- Maximum penalty: \$35 000.

#### **54—Licences to be displayed**

The holder of a gaming machine licence must display a copy of the gaming machine licence in a prominent position at the entrance to each gaming area on the licensed premises or, if there is more than one entrance, at the principal entrance.

Maximum penalty: \$10 000.

Expiation fee: \$1 200.

### **Division 3—Offences relating to minors**

#### **55—Minors must not be employed in gaming operations**

If a minor is employed in any capacity in connection with the conduct of gaming operations on licensed premises, the licensee is guilty of an offence.

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

#### **56—Minors not permitted in gaming areas**

- (1) A minor must not enter or remain in a gaming area or operate a gaming machine on licensed premises.
- Maximum penalty: \$2 500.
- (2) Where a minor enters or remains in a gaming area or operates a gaming machine on licensed premises, the licensee and the approved gaming machine manager on duty at the time are each guilty of an offence.
- Maximum penalty: \$10 000.
- (3) It is a defence to a charge of an offence against subsection (2) for the defendant to prove that he or she took reasonable steps to prevent the entry of the minor to, or to remove the minor from, the gaming area or to prevent him or her from operating the gaming machine.
- (4) A holder of a gaming machine licence or an approved gaming machine manager who permits a minor to enter or remain in a gaming area on the licensed premises, or to operate a gaming machine on the premises, is guilty of an offence.
- Maximum penalty: \$20 000.
- (5) A minor who operates a gaming machine in contravention of this section is not entitled to any winnings he or she may have made on the machine and those winnings are forfeited to the Crown.

#### **57—Licensee must erect warning notices**

- (1) The holder of a gaming machine licence must cause a notice, in the prescribed form, to be erected in a prominent position at each entrance to each gaming area on the licensed premises and to be displayed prominently on each gaming machine.

- (2) The notice must state—
- (a) the minimum age at which a person may enter and remain in the gaming area and operate a gaming machine; and
  - (b) that a person suspected of being under the minimum age may be required to provide evidence of age; and
  - (c) that a person under the minimum age is not entitled to any winnings from the operation of a gaming machine on the premises; and
  - (d) the maximum penalties for entering or remaining in the gaming area or for operating a gaming machine; and
  - (e) any other information required by the regulations or the gaming machine licence conditions.
- (3) A licensee who fails to comply with subsection (1) is guilty of an offence.  
Maximum penalty: \$10 000.  
Expiation fee: \$1 200.

### **58—Powers in relation to minors in gaming areas**

- (1) Where an authorised person suspects on reasonable grounds that a person in a gaming area may be a minor, he or she may require the person to produce evidence to the authorised person's satisfaction as to the person's age.
- (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.
- (3) Where an authorised person suspects on reasonable grounds that a person who is in a gaming area or who is about to enter a gaming area is a minor, the authorised person may require the person to leave the gaming area.
- (4) If a person refuses or fails to comply with a requirement under subsection (3), the authorised person may remove him or her from the licensed premises, using only such force as is reasonably necessary for the purpose.
- (5) An authorised person must comply with any procedures prescribed under the *Liquor Licensing Act 1997* in relation to the removal by authorised persons (within the meaning of that Act) of minors from licensed premises or a part of licensed premises.

## **Division 4—Persons barred from gaming areas**

### **59—Licensee may bar excessive gamblers**

- (1) A person who enters or remains in a gaming area from which he or she has been barred pursuant to this section is guilty of an offence.  
Maximum penalty: \$2 500.

- (2) If the holder of a gaming machine licence is satisfied that the welfare of a person, or the welfare of a person's dependants, is seriously at risk as a result of the excessive playing of gaming machines by the person, he or she may, by order, bar the person from entering or remaining in the gaming area, or areas, of the premises to which the licence relates.
- (3) The holder of a gaming machine licence may revoke an order made by him or her under this section.
- (4) The holder of a gaming machine licence who suffers or permits a person to enter or remain in a gaming area from which the person has been barred is guilty of an offence.  
Maximum penalty: \$10 000.
- (5) If an approved gaming machine manager or an approved gaming machine employee suffers or permits a person to enter or remain in a gaming area from which the person has been barred, the licensee and the manager or employee are each guilty of an offence.  
Maximum penalty: \$10 000.

#### **60—Power to remove persons who have been barred**

- (1) Where an authorised person suspects on reasonable grounds that a person who is in, or who is entering or about to enter, a gaming area is barred from that gaming area pursuant to this Division, the authorised person may require the person to leave the gaming area.
- (2) If a person refuses or fails to comply with a requirement under subsection (1), the authorised person may remove him or her from the licensed premises, using only such force as is reasonably necessary for the purpose.
- (3) An authorised person must comply with any procedures prescribed under the *Liquor Licensing Act 1997* in relation to the removal by authorised persons (within the meaning of that Act) of persons from licensed premises.

#### **61—Commissioner may review decision of licensee**

- (1) The Commissioner may, on application by a person who is aggrieved by a decision of a licensee to bar a person from a gaming area, review that decision.
- (2) The Commissioner may confirm or revoke the decision and his or her decision on the matter is not appealable.

### **Division 5—Offences relating to cheating etc**

#### **62—Interference with machines, equipment or games**

A person who interferes in any way with the proper operation of an approved gaming machine or gaming equipment, or the proper operation of an approved game in a gaming machine, with the intent of gaining any benefit or advantage for himself or herself or any other person, is guilty of an offence.

Maximum penalty: \$50 000 or imprisonment for 4 years.

**63—Interference devices**

A person who manufactures, sells, supplies or has in his or her possession a device designed, adapted or intended to be used for the purpose of interfering with the proper operation of an approved gaming machine or gaming equipment or the proper operation of an approved game in a gaming machine is guilty of an offence.

Maximum penalty: \$50 000 or imprisonment for 4 years.

**64—Sealing of gaming equipment and gaming machines**

- (1) A person other than an authorised officer must not seal any gaming equipment or break or in any way interfere with any such seal.

Maximum penalty: \$5 000 or imprisonment for 3 months.

- (2) A person other than an authorised officer or an approved gaming machine technician must not seal any part of a gaming machine or break or in any way interfere with any such seal.

Maximum penalty: \$5 000 or imprisonment for 3 months.

**65—Removal of gaming tokens**

A person other than a person acting in the course of his or her duties must not remove any cash or gaming tokens from a gaming machine.

Maximum penalty: \$5 000 or imprisonment for 3 months.

**66—Machines not to be operated in certain circumstances**

- (1) If, at any time when a gaming area on licensed premises is open for business, the licensee or an approved gaming machine manager suffers or permits a gaming machine to be operated—

- (a) while the gaming machine or any game in the machine is not operating in such a manner that the rules of the game are being complied with, while the sequence or incidence of winnings has in any way been altered or while the machine is in any other way operating defectively; or
- (b) while the gaming machine is not connected to the computer monitoring system or the connection is in anyway defective; or
- (c) while the door of its computer cabinet is not sealed in the manner approved by the Commissioner,

the licensee or manager is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 1 year.

**67—Power to remove offenders**

- (1) An authorised person, if satisfied that a person who is in a gaming area on licensed premises—

- (a) has damaged or physically abused any gaming machine; or
- (b) has committed, is committing or is about to commit an offence; or
- (c) is behaving in an offensive, abusive or disorderly manner,

may remove the person from the licensed premises, using only such force as is reasonably necessary for the purpose.

- (2) A person removed from licensed premises under subsection (1) who enters or attempts to enter the premises within 24 hours of being so removed from them is guilty of an offence.

Maximum penalty: \$2 500.

- (3) An authorised person may refuse entry to, or prevent from entering, the gaming area, or areas, on licensed premises any person who is behaving in an offensive, abusive or disorderly manner.

- (4) A person—

- (a) who is refused entry to, or prevented from entering, a gaming area under subsection (3); and
- (b) who enters or attempts to enter any of the gaming areas on the premises within 24 hours after entry is so refused or prevented,

is guilty of an offence.

Maximum penalty: \$2 500.

- (4a) The regulations may prescribe procedures to be observed by authorised persons in or in connection with the prevention of persons from entering gaming areas.

- (4b) An authorised person must comply with any procedures—

- (a) prescribed under subsection (4a); or
- (b) prescribed under the *Liquor Licensing Act 1997* in relation to the removal by authorised persons (within the meaning of that Act) of persons from licensed premises.

- (5) The powers exercisable under this section are in addition to any other powers that are exercisable at law.

## **Division 6—Offences relating to profit sharing etc**

### **68—Certain profit sharing etc is prohibited**

- (1) If the holder of a gaming machine licence—

- (a) enters into partnership with an unlicensed person (that is to say, a person who is not one of the holders of the gaming machine licence) in relation to the business conducted pursuant to the licence; or
- (b) is party to any agreement or arrangement under which an unlicensed person in any way participates in the proceeds or profits of the business carried on pursuant to the licence; or
- (c) remunerates an unlicensed person (other than the holder of the gaming machine monitor licence) by reference to the proceeds or profits of, or the amount staked in the course of, the business carried on pursuant to the licence; or

- (d) permits an unlicensed person (not being a person who is an approved gaming machine manager in respect of the business) to conduct, superintend or manage the business carried on pursuant to the licence; or
- (e) permits an unlicensed person to hold himself or herself out to the public as the licensee,

the licensee and the unlicensed person are each guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 1 year.

- (2) Subsection (1) does not apply to—
  - (a) an agreement or arrangement providing for the disbursement of proceeds or profits to a person in a position of authority in a trust or corporate entity that holds the gaming machine licence; or
  - (b) an agreement or arrangement on terms approved by the Commissioner.

## Part 6—Appeals

### 69—Right of appeal

- (1) A party to proceedings before the Commissioner who is dissatisfied with a decision or order made or given in the proceedings may appeal to the Court against the decision or order.
- (2) A person who is the subject of a direction given by the Commissioner under this Act (except when acting as an authorised officer) may appeal to the Authority against that direction.
- (3) An appeal under this section must be instituted within one month of the decision, or order or direction being made or given or such longer period as the Court or the Authority, as the case may be, may allow.
- (4) An appeal under this section is in the nature of a rehearing.
- (5) The Court or Authority may, on an appeal under this section, do such of the following as the Court or Authority thinks appropriate:
  - (a) affirm, vary or quash the decision, order or direction subject to the appeal;
  - (b) substitute, or make in addition, any decision, order or direction that the Commissioner could make;
  - (c) remit the matter to the Commissioner for further consideration;
  - (d) make any incidental or ancillary order.
- (6) For the purposes of this section, the transferor of a gaming machine licence is a party to any proceedings relating to the transfer of the licence.
- (6a) For the purposes of this section, a person who has objected to an application under this Act is entitled to be joined as a party to any proceedings relating to the application.
- (7) No right of appeal lies against a decision or order of the Court or Authority on an appeal under this section.

## 70—Operation of decisions pending appeal

- (1) Subject to subsection (2), a decision, order or direction against which a right of appeal lies continues to operate despite that right of appeal or the institution of appeal proceedings.
- (2) The Commissioner or the appropriate appellate authority may—
  - (a) suspend the operation of a decision, order or direction against which an appeal has been commenced or is proposed; or
  - (b) make any other order or direction that may be appropriate in the circumstances.
- (3) In subsection (2)—

*appropriate appellate authority* means—

  - (a) if the appeal lies to the Court—the Court;
  - (b) if the appeal lies to the Authority—the Authority.

## 70A—Procedure in relation to criminal intelligence

In any proceedings under this Part, the Court or the Authority—

- (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.

## Part 7—Powers of inspection etc

### 71—Powers of authorised officers

- (1) An authorised officer—
  - (a) may, for the purposes of ascertaining whether the provisions of this Act or a licence under this Act are being complied with, at any time while premises on which the holder of a licence conducts any business pursuant to the licence are open for business or at any other reasonable time; or
  - (b) may, where the officer suspects on reasonable grounds that an offence has been, is being or is about to be committed on any premises or that evidence of an offence is likely to be found on any premises, at any time,exercise all or any of the following powers:
  - (c) enter or, where necessary, break into the premises, using only such force as is reasonably necessary for the purpose;
  - (d) inspect or search the premises or anything on the premises;
  - (e) require any person on the premises to—

- (i) produce any equipment or other items, or any books, papers or documents, that are in the person's custody or control;
    - (ii) answer any questions put by the authorised officer;
    - (iii) open any gaming machine on the premises or any part of such a machine;
  - (f) inspect any books, papers or documents produced to him or her and retain them for so long as is reasonably necessary for the purpose of copying or taking extracts from any of them;
  - (g) if the authorised officer suspects on reasonable grounds that an offence has been committed, seize and retain anything that he or she believes affords evidence of the offence;
  - (h) give such directions as are reasonably necessary for, or as are incidental to, the effective exercise of the officer's powers under this section.
- (2) An authorised officer cannot exercise powers under subsection (1)(c) in relation to premises that are not used in the course of a business carried on pursuant to a licence under this Act except on the authority of a warrant issued by a justice.
- (3) A justice cannot issue a warrant under subsection (2) 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.
- (4) An authorised officer may, in exercising powers under this section, be accompanied by such assistants as are reasonably necessary for the purpose.
- (5) Where an authorised officer suspects on reasonable grounds that—
- (a) a gaming machine, an approved game or any gaming equipment is defective or is not operating correctly; or
  - (b) that the computer system by which the operation of gaming machines is monitored is defective or is not operating correctly,
- the authorised officer may give such directions to any licensee or employee of a licensee as the officer thinks fit for the purpose of ensuring compliance with this Act or the proper conduct of gaming operations.
- (6) If a person refuses or fails to comply with a direction given under subsection (5), the authorised officer may himself or herself do such things as are reasonably necessary to ensure compliance with the direction, including, if the officer believes it to be the only effective way of ensuring compliance, the seizure of any gaming machine, gaming machine component or gaming equipment.
- (6a) An authorised officer may—
- (a) require a person who has custody or control of books, papers or documents relevant to a business conducted under a licence to produce them at a specified place for inspection at a specified time or within a specified period; and

- (b) inspect books, papers or documents so produced and retain them for as long as is reasonably necessary for the purposes of copying or taking extracts from any of them.
- (7) Subject to subsection (8), a person who—
- (a) without reasonable excuse, hinders or obstructs an authorised officer in the exercise of powers under this section; or
  - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
  - (c) fails to comply with any other lawful requirement or direction of an authorised officer; or
  - (d) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
  - (e) falsely represents, by word or conduct, that he or she is an authorised officer,
- is guilty of an offence.
- Maximum penalty: \$20 000.
- (8) A person is not required to answer a question, or to produce books, papers or documents, under this section if—
- (a) the answer to the question or the contents of the books, papers or documents would tend to incriminate the person of an offence; or
  - (b) by answering the question or producing the books, papers or documents the person would commit a breach of legal professional privilege.

- (9) In this section—

*offence* means an offence against this Act or any other offence arising out of or committed in connection with the conduct of gaming operations pursuant to this Act.

## **Part 8—Gaming tax**

### **71A—Moratorium on increases in rates of gaming tax**

It is the intention of Parliament that the rates of gaming tax, as in force at the time of the enactment of this section, should not be increased before 30 June 2014.

### **72—Interpretation**

In this Part—

*net gambling revenue* or *NGR*, in relation to the holder of a gaming machine licence and a financial year, means the total amount of all bets made on the gaming machines on the licensed premises during the year less the total amount of all prizes won on the machines during the year;

*non-profit business* means a business carried out under a gaming machine licence held by or on behalf of a body corporate or association, where the Minister is satisfied that the profits of the business cannot be returned to the members or shareholders of the body corporate or association;

*prescribed gaming tax*—

- (a) in respect of the 2002/2003 financial year, means—
- (i) in the case of a non-profit business—the amount of tax calculated in accordance with Part 1 of the following table, as adjusted, for the 6 months from 1 January 2003 until 30 June 2003 (the *second 6 months*), by subtracting or adding (as the case requires) the adjustment amount in accordance with Part 2 of the table:

<b>Part 1</b>	
<b>Tax Threshold</b>	<b>Tax</b>
For NGR of \$399 000 or less for the financial year	20.91% of the NGR
For NGR of more than \$399 000 but equal to or less than \$945 000 for the financial year	\$83 430.90 plus 25.91% of the excess NGR over \$399 000
For NGR of more than \$945 000 for the financial year	\$224 899.50 plus 30.91% of the excess NGR over \$945 000

<b>Part 2</b>	
<b>Adjustment Threshold</b>	<b>Adjustment</b>
For NGR of \$37 500 or less for the second 6 months	subtract 20.91% of the NGR
For NGR of more than \$37 500 but equal to or less than \$199 500 for the second 6 months	subtract \$7 841.25 and add 0.09% of the excess NGR over \$37 500
For NGR of more than \$199 500 but equal to or less than \$472 500 for the second 6 months	subtract \$7 695.45 and add 2.59% of the excess NGR over \$199 500
For NGR of more than \$472 500 but equal to or less than \$750 000 for the second 6 months	subtract \$624.75
For NGR of more than \$750 000 but equal to or less than \$1 250 000 for the second 6 months	subtract \$624.75 and add 6.59% of the excess NGR over \$750 000
For NGR of more than \$1 250 000 but equal to or less than \$1 750 000 for the second 6 months	add \$32 325.25 plus 16.09% of the excess NGR over \$1 250 000
For NGR of more than \$1 750 000 for the second 6 months	add \$112 775.25 plus 24.09% of the excess NGR over \$1 750 000

- (ii) in any other case—the amount of tax calculated in accordance with Part 1 of the following table, as adjusted, for the 6 months from 1 January 2003 until 30 June 2003 (the *second 6 months*), by subtracting or adding (as the case requires) the adjustment amount in accordance with Part 2 of the table:

<b>Part 1</b>	
<b>Tax Threshold</b>	<b>Tax</b>
For NGR of \$399 000 or less for the financial year	25.91% of the NGR
For NGR of more than \$399 000 but equal to or less than \$945 000 for the financial year	\$103 380.90 plus 34.41% of the excess NGR over \$399 000
For NGR of more than \$945 000 for the financial year	\$291 259.50 plus 40.91% of the excess NGR over \$945 000

<b>Part 2</b>	
<b>Adjustment Threshold</b>	<b>Adjustment</b>
For NGR of \$37 500 or less for the second 6 months	subtract 25.91% of the NGR
For NGR of more than \$37 500 but equal to or less than \$199 500 for the second 6 months	subtract \$9 716.25 and add 1.59% of the excess NGR over \$37 500
For NGR of more than \$199 500 but equal to or less than \$472 500 for the second 6 months	subtract \$7 140.45 and add 2.59% of the excess NGR over \$199 500
For NGR of more than \$472 500 but equal to or less than \$750 000 for the second 6 months	subtract \$69.75
For NGR of more than \$750 000 but equal to or less than \$1 250 000 for the second 6 months	subtract \$69.75 and add 6.59% of the excess NGR over \$750 000
For NGR of more than \$1 250 000 but equal to or less than \$1 750 000 for the second 6 months	add \$32 880.25 plus 16.09% of the excess NGR over \$1 250 000
For NGR of more than \$1 750 000 for the second 6 months	add \$113 330.25 plus 24.09% of the excess NGR over \$1 750 000

(b) in respect of the 2003/2004 financial year and each successive financial year, means—

(i) in the case of a non-profit business—the amount of tax calculated in accordance with the following table:

<b>Tax Threshold</b>	<b>Tax</b>
For NGR of \$75 000 or less for the financial year	nil
For NGR of more than \$75 000 but equal to or less than \$399 000 for the financial year	21% of the excess NGR over \$75 000
For NGR of more than \$399 000 but equal to or less than \$945 000 for the financial year	\$68 040 plus 28.5% of the excess NGR over \$399 000
For NGR of more than \$945 000 but equal to or less than \$1 500 000 for the financial year	\$223 650 plus 30.91% of the excess NGR over \$945 000

<b>Tax Threshold</b>	<b>Tax</b>
For NGR of more than \$1 500 000 but equal to or less than \$2 500 000 for the financial year	\$395 200.50 plus 37.5% of the excess NGR over \$1 500 000
For NGR of more than \$2 500 000 but equal to or less than \$3 500 000 for the financial year	\$770 200.50 plus 47% of the excess NGR over \$2 500 000
For NGR of more than \$3 500 000 for the financial year	\$1 240 200.50 plus 55% of the excess NGR over \$3 500 000

- (ii) in any other case—the amount of tax calculated in accordance with the following table:

<b>Tax Threshold</b>	<b>Tax</b>
For NGR of \$75 000 or less for the financial year	nil
For NGR of more than \$75 000 but equal to or less than \$399 000 for the financial year	27.5% of the excess NGR over \$75 000
For NGR of more than \$399 000 but equal to or less than \$945 000 for the financial year	\$89 100 plus 37% of the excess NGR over \$399 000
For NGR of more than \$945 000 but equal to or less than \$1 500 000 for the financial year	\$291 120 plus 40.91% of the excess NGR over \$945 000
For NGR of more than \$1 500 000 but equal to or less than \$2 500 000 for the financial year	\$518 170.50 plus 47.5% of the excess NGR over \$1 500 000
For NGR of more than \$2 500 000 but equal to or less than \$3 500 000 for the financial year	\$993 170.50 plus 57% of the excess NGR over \$2 500 000
For NGR of more than \$3 500 000 for the financial year	\$1 563 170.50 plus 65% of the excess NGR over \$3 500 000

## 72A—Gaming tax

- (1) The holder of a gaming machine licence must pay to the Treasurer, for each financial year, the prescribed gaming tax on the net gambling revenue derived in respect of the licensed premises in the financial year.
- (3) The tax to which a licensee is liable under subsection (1) is payable in monthly instalments, to be calculated and paid (subject to subsection (3a)) in the manner specified by the Minister by notice in the Gazette.
- (3aa) The Minister may, by further notice in the Gazette, vary or revoke a notice under subsection (3).
- (3a) The monthly instalments referred to in subsection (3) will be determined on the basis of the net gambling revenue derived in respect of the licensed premises for the whole of the relevant financial year whether that revenue is derived by the same person or different persons during different parts of the year or pursuant to one gaming machine licence or to two or more gaming machine licences during different parts of the year.

- (3b) The holder of a gaming machine licence at the end of a month in respect of which an instalment referred to in subsection (3) is payable is liable for the amount payable in respect of that month whether he or she was the holder of the licence throughout the month or not.
- (4) The revenue received under this section by the Treasurer in respect of each financial year is to be paid—
- (a) as to \$3.5 million—into the *Sport and Recreation Fund* established under this Part;
  - (b) as to \$4 million—into the *Charitable and Social Welfare Fund* established under this Part;
  - (ba) as to \$3.845 million—into the *Gamblers Rehabilitation Fund* established under this Part;
  - (c) as to \$20 million—into the *Community Development Fund* established under this Part;
  - (d) as to the balance—into the Consolidated Account.
- (5) The Treasurer will pay the sums referred to in subsection (4)(a), (b), (ba) and (c) into the various Funds in equal monthly instalments (starting in July 1996).

## **72B—Recovery of tax**

- (1) If default is made by a licensee for more than 7 days in paying an amount due and payable under this Part, a fine of 10 per cent of the amount outstanding is added to that amount.
- (2) The Commissioner may, if he or she thinks good reason exists for doing so, waive payment of the whole or a part of a fine incurred under subsection (1).
- (2a) If default is made by a licensee for more than 10 days in paying an amount due and payable under this Part, the Commissioner may, by written notice to the licensee, suspend the licence (and the licence will remain suspended until the amount, and any fine, is paid or the Commissioner terminates the suspension of the licence).
- (3) An amount due and payable under this Part is recoverable by the Treasurer as a debt due to the Crown.
- (4) If an amount is due and payable under this Part by a licensee that is a body corporate and—
- (a) the body corporate is dissolved; or
  - (b) the amount is not satisfied in full within 14 days of written demand being made by the Commissioner,
- the amount outstanding may be recovered from—
- (c) a person who was a director or a member of the governing body of the body corporate or former body corporate at the time when the amount became due and payable by the licensee; or
  - (d) a body corporate that was a related body corporate (as defined in the *Corporations Law*) at that time or a person who was a director of such a related body corporate at that time.

### 73—Accounts and monthly returns

- (1) The holder of a gaming machine licence must cause proper accounts to be kept, in accordance with this section, of the gross gaming turnover and net gambling revenue for each month in respect of the business carried out pursuant to the licence and such other accounts in relation to that business as the Commissioner may require.
- (2) The accounts must—
  - (a) be kept in a form determined by the Commissioner; and
  - (b) be kept on the licensed premises; and
  - (c) be preserved on those premises or, if the business to which they relate no longer exists, at some other place within the State, for a period of six years from the date on which they are compiled.
- (3) The holder of a gaming machine licence must furnish the Commissioner, within seven days of the end of each month in respect of which a payment is to be made pursuant to this Part, with a return in a form determined by the Commissioner giving such information as the Commissioner may require for the purposes of determining the amount of that payment.
- (4) A licensee who, in a return furnished under this section, knowingly makes any false statement or knowingly gives any false information or particulars is guilty of an offence.  
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) A court, on convicting a person of an offence against subsection (4), may, if satisfied that the false statement, information or particulars resulted in a reduced amount of gaming tax being payable, impose (in addition to any other penalty imposed) a fine of an amount equal to twice the amount by which the tax was so reduced.

### 73A—Sport and Recreation Fund

- (1) The *Sport and Recreation Fund* is established.
- (2) The Fund is to be kept at Treasury.
- (3) The money paid into the Fund under this Part will from time to time be applied, in accordance with the directions of the prescribed Minister, in financial assistance for sporting or recreation organisations.
- (4) The prescribed Minister must, before giving a direction under subsection (3), consult with the Economic and Finance Committee established under the *Parliamentary Committees Act 1991*.
- (5) The Chief Executive of the administrative unit of the Public Service responsible to the prescribed Minister must provide the Economic and Finance Committee with such information as the Committee may require relating to applications for financial assistance made by sporting or recreation organisations.
- (6) Financial assistance will not be given under this section to an organisation that is the holder of a gaming machine licence.
- (7) In this section—

**prescribed Minister** means the Minister responsible for the administration of the *Recreational Greenways Act 2000*.

### **73B—Charitable and Social Welfare Fund**

- (1) The *Charitable and Social Welfare Fund* is established.
- (2) The Fund will be kept at Treasury.
- (3) The money paid into the Fund under this Part will from time to time be applied by the Treasurer, in accordance with the directions of a board that must be established by the Minister responsible for the administration of the *Family and Community Services Act 1972* for the purpose, in financial assistance for charitable or social welfare organisations.
- (4) The board established under subsection (3) is to consist of 5 members—
  - (a) being persons who have, between them, appropriate expertise in financial management and charitable or social welfare organisation administration; and
  - (b) at least 2 of whom are women and 2 are men.
- (5) The procedures of the board will be as determined by the Minister responsible for the administration of the *Family and Community Services Act 1972*.

### **73BA—Gamblers Rehabilitation Fund**

- (1) The *Gamblers Rehabilitation Fund* is established.
- (2) The Fund will be kept at the Treasury.
- (3) The Minister responsible for the administration of the *Family and Community Services Act 1972* will invite contributions to the Fund from stakeholders in the gambling industry.
- (4) The money paid into the Fund under this Part will from time to time be applied by the Minister responsible for the administration of the *Family and Community Services Act 1972* towards programs for or related to minimising problem gambling or rehabilitating problem gamblers.

### **73C—Community Development Fund**

- (1) The *Community Development Fund* is established.
- (2) The Fund will be kept at Treasury.
- (3) The money paid into the Fund under this Part will from time to time be applied by the Treasurer, in accordance with the directions of the Governor, towards—
  - (a) financial assistance for community development; and
  - (b) the provision of government health, welfare or education services.
- (4) Despite subsection (3), at least \$500 000 must be applied from the Fund in each financial year towards programs that will be of benefit to the live music industry.

## **Part 9—Miscellaneous**

### **74—Annual reports**

- (1) The Authority must, no later than 30 September in each year, submit to the Minister a report on the performance of its functions under this Act during the financial year ending on the previous 30 June.

- (2) The Commissioner must, no later than 30 September in each year, submit to the Minister a report on the administration of this Act during the financial year ending on the previous 30 June.
- (3) The annual report of the Commissioner must include the following information in relation to the financial year to which the report relates:
  - (a) the number of expiation notices issued for offences against this Act;
  - (b) the number of prosecutions commenced for offences against this Act;
  - (c) the number of persons barred by order under section 59 and the number of orders made under that section against each such person.
- (4) The Minister must, within 12 sitting days of receiving a report under this section, cause a copy of the report to be laid before each House of Parliament.

### **75—Audit requirements for gaming machine monitor licence**

The accounts of the undertaking carried out pursuant to the gaming machine monitor licence, and the undertaking carried out by the holder of that licence pursuant to any other licence under this Act, may at any time, and must at least once in each year of operation, be audited by the Auditor-General.

### **76—Power to refuse to pay winnings**

- (1) If the holder of a gaming machine licence or an approved gaming machine manager for the licensed premises is satisfied that a gaming machine on the premises, or a game being played on such a machine, is not operating properly and that it would not be just and equitable to allow a particular player to redeem his or her winnings on the machine, the licensee or manager may withhold those winnings from that player and, in that event, must obtain the player's name and address and inform him or her of the right to have the decision reviewed.
- (2) A player who is aggrieved by a decision to have his or her winnings withheld may apply to the Commissioner for a review of the decision.
- (3) The Commissioner may confirm or revoke the decision and his or her decision on the matter is not appealable.

### **76A—Financing of licensee's business**

- (1) The Minister may, by notice in the Gazette, grant an exemption from such provisions of this Act as may be necessary for the purpose of enabling—
  - (a) the holder of a gaming machine licence, the special club licence or a gaming machine dealer's licence and a credit provider to enter into any arrangements (including leasing arrangements) for the financing of the licensee's acquisition of gaming machines or gaming machine entitlements or otherwise financing the business conducted on the licensed premises; and
  - (b) a credit provider to exercise rights of repossession and sale over gaming machines, and gaming machine entitlements, subject to any credit arrangement.
- (2) An exemption is subject to any conditions specified in the notice.
- (3) The Minister may, by subsequent notice in the Gazette, vary an exemption.

- (4) If a credit provider repossesses or acquires a gaming machine or gaming machine entitlement under an arrangement to which an exemption relates, the credit provider—
- (a) must, within 7 days after the repossession or acquisition, give written notice to the Commissioner of the repossession or acquisition; and
  - (b) must ensure the gaming machine is not operated while in the ownership of the credit provider; and
  - (c) must ensure the gaming machine is, while in the ownership of the credit provider, stored by the holder of a gaming machine dealer's licence or gaming machine service licence in a secure storage location; and
  - (d) must not sell the gaming machine except to the holder of a gaming machine dealer's licence; and
  - (e) must, within 7 days after selling or otherwise disposing of the gaming machine or gaming machine entitlement, give written notice to the Commissioner of the details of the sale or other disposition.

Maximum penalty: \$35 000.

### **77—Certain agreements and arrangements are unlawful**

- (1) If any agreement or arrangement is entered into by the holder of a gaming machine licence and any person other than the holder of a gaming machine dealer's licence for, or in connection with, the supply or acquisition of gaming machines, games or prescribed gaming machine components—
- (a) the agreement or arrangement is null and void; and
  - (b) the parties to the agreement or arrangement are each guilty of an offence.

Maximum penalty: \$10 000.

- (3) If the Commissioner or an inspector enters into any agreement or arrangement of a financial or business nature with a licensee, a person who is an applicant for a licence or approval under this Act or an approved gaming machine manager or gaming machine employee without the prior approval of the Minister—
- (a) the agreement or arrangement is null and void; and
  - (b) the parties to the agreement or arrangement are each guilty of an offence.

Maximum penalty: \$20 000.

### **78—False or misleading statements**

A person who knowingly makes a false or misleading statement in an application, a return or any other document furnished by him or her under this Act is guilty of an offence.

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

### **79—Bribery**

- (1) A person who offers, promises or gives a bribe to a licensee or an approved gaming machine manager or gaming machine employee with the intent of gaining for himself or herself or some other person an improper benefit in the course of gaming conducted pursuant to this Act is guilty of an offence.

Maximum penalty: \$50 000 or imprisonment for 4 years.

- (2) A licensee or an approved gaming machine manager or gaming machine employee who solicits, accepts or agrees to accept such a bribe (whether for himself or herself or some other person) is guilty of an offence.

Maximum penalty: \$50 000 or imprisonment for 4 years.

- (3) In this section—

*bribe* includes any form of inducement.

### **80—Licensees to disclose gifts etc**

A licensee must, within one month of receiving, accepting or taking advantage of any gift, favour or benefit given or offered to him or her in connection with carrying out the undertaking authorised by the licence, furnish the Commissioner with a written report of the particulars of the gift, favour or benefit, including the name and address of the person who gave or offered it.

Maximum penalty: \$2 500.

### **81—Liability of licensed dealer for acts of agent**

If a person, in the course of acting as the agent of the holder of a gaming machine dealer's licence, commits an offence against this Act or commits any other offence in the course of dealing with a licensee under this Act in relation to the undertaking authorised by the licence held by the licensee, the holder of the gaming machine dealer's licence is guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

### **82—Service**

- (1) A notice or other document may be served on a licensee—

- (a) personally; or
- (b) by leaving it at the licensed premises, in an envelope addressed to the licensee, with a person apparently employed or engaged in the business conducted in pursuance of the licence; or
- (c) by sending it by post to the licensee addressed to him or her at the licensed premises.

- (1a) A notice or other document may be served on any other person—

- (a) personally; or
- (b) if the person has nominated an address for service—by leaving it at or posting it to that address in an envelope addressed to the person; or
- (c) by posting it to the person's usual place of business or residence in an envelope addressed to the person; or
- (d) by leaving it at or posting it to the address of the person's solicitor in an envelope addressed to the solicitor.

- (2) A notice or other document sent by post to a person under this section will be conclusively presumed to have been served on the person at the time when it would, in the ordinary course of post, reach the address to which it was posted.

## 84—Prosecution of summary offences

Proceedings for a summary offence against this Act must be commenced—

- (a) in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
- (b) in any other case—within 5 years of the date on which the offence is alleged to have been committed.

## 85—Vicarious liability

- (1) If a body corporate that holds a licence is guilty of a prescribed offence, each person occupying a position of authority in the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the person proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.
- (1a) If a body corporate that holds a licence is guilty of any other offence against this Act, each person occupying a position of authority in the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—
  - (a) the person knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
  - (b) the person was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
  - (c) the person failed to exercise due diligence to prevent the commission of the offence.
- (1b) Subsection (1a) does not apply if the principal offence is an offence against section 6, 50A, 54, 57, 64, 65, 71 or 80 or is an offence against the regulations that is specified as an offence to which subsection (1a) does not apply.
- (1c) If a body corporate that holds a licence is guilty of an offence against this Act, any approved gaming machine manager for the licensed premises is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the manager proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.
- (2) If the trustee of a trust that holds a licence is guilty of an offence against this Act, any other person occupying a position of authority in the trust and any approved gaming machine manager for the licensed premises are each guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.
- (3) If there is proper cause for disciplinary action against a trust or corporate entity under Part 3, there is proper cause for disciplinary action under that Part against each person occupying a position of authority in the entity unless it is proved that the person could not, by the exercise of reasonable care, have prevented the misconduct.
- (4) In this section—

**prescribed offence** means any offence for which the maximum penalty includes a term of imprisonment of 2 or more years.

### **85A—Destruction of fingerprints**

- (1) This section applies—
  - (a) to fingerprints taken under section 19, 28 or 42 in connection with an application for a licence, consent or approval if the application is refused; or
  - (b) to fingerprints taken under section 19, 28 or 42 in connection with an application for a licence, consent or approval if the application is granted and—
    - (i) in the case of a licence—the licence is revoked or surrendered, or the holder, being a body corporate, dissolved; or
    - (ii) in the case of an approval—the approval is revoked.
- (2) A person whose fingerprints have been taken for the purposes of this Act may, if the fingerprints are fingerprints to which this section applies, apply to the Commissioner of Police to have the fingerprints, and any copies of the fingerprints, destroyed.
- (3) The Commissioner of Police may grant or refuse the application as the Commissioner of Police sees fit.

### **86—Evidentiary provision**

- (1) In proceedings for an offence against this Act or in disciplinary proceedings against a licensee, an allegation in the complaint—
  - (a) that a person named in the complaint is or is not, or was or was not on a specified date, the holder of a specified licence;
  - (b) that premises referred to in the complaint are, or were on a specified date, licensed premises;
  - (c) that an area referred to in the complaint was or was not, on a specified date, a gaming area;
  - (d) that a person named in the complaint is, or was on a specified date, a minor;
  - (e) that a licence referred to in the complaint is, or was on a specified date, subject to specified conditions;
  - (f) that a person named in the complaint is or is not, or was or was not on a specified date, an approved gaming machine manager or approved gaming machine employee;
  - (g) that a machine referred to in the complaint was or was not on a specified date an approved gaming machine;
  - (h) that an item referred to in the complaint was or was not on a specified date an approved gaming token or an approved game;
  - (i) that a person named in the complaint is not, or was not on a specified date, an approved manufacturer of gaming tokens;
  - (j) that a person named in the complaint is, or was on a specified day, occupying a position of authority in a trust or corporate entity that holds a licence under this Act;
  - (k) that a person named in the complaint is or is not, or was or was not on a specified date, 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, approval or other document issued under this Act, or to be a copy of such a licence, approval or other document, will be accepted as such in the absence of proof to the contrary.

## **87—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or desirable for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - (a) regulate any matter relating to the conduct, management or procedures of a business carried on pursuant to a licence;
  - (b) fix fees in respect of any matter under this Act and provide for their payment, recovery or waiver;
  - (c) provide for the exemption, subject to prescribed conditions, of any person who, immediately before the commencement of this Act, had possession of a gaming machine in his or her home;
  - (d) provide for the granting by the Minister of other conditional or unconditional exemptions from this Act, or from any provision of this Act;
  - (e) fix penalties not exceeding \$10 000 for breaches of the regulations;
  - (f) fix expiation fees not exceeding \$1 200 for alleged breaches of the regulations.
- (3) A regulation under this Act may be of general, limited or varied application according to—
  - (a) the classes of person, gaming machines or gaming operations; or
  - (b) the circumstances; or
  - (c) any other specified factor,to which the regulation is expressed to apply.
- (4) A regulation under this Act may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, the Authority or the Commissioner.

## **88—Exclusion of compensation**

- (1) No right to compensation arises—
  - (a) as a result of the expropriation or diminution of rights of a licensee by the 2004 amendments; or
  - (b) as a result of the cancellation or lapse of a gaming machine entitlement under this Act.
- (2) In this section—

**2004 amendments** means the amendments to this Act made by the *Gaming Machines (Miscellaneous) Amendment Act 2004*.

## 89—Minister to obtain reports

- (1) The Minister must obtain the following reports from the Authority—
  - (a) a report on the introduction of gaming machine entitlements, the operation of the trading system for gaming machine entitlements, and the effects on the gambling industry;
  - (b) a report on the effects of the 2004 amendments on gambling in the State and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction.
- (2) The reports must be delivered to the Minister—
  - (a) in the case of the report under subsection (1)(a)—before 31 December 2005;
  - (b) in the case of the report under subsection (1)(b)—as soon as practicable after the second anniversary of the commencement of the 2004 amendments.
- (3) The Minister must—
  - (a) if Parliament is sitting—have copies of a report received under this section laid before both Houses of Parliament within 6 sitting days; or
  - (b) if Parliament is not sitting—give copies of the report to the Speaker of the House of Assembly and the President of the Legislative Council so that they may lay copies of the report before their respective Houses on resumption of sittings and, in the meantime, distribute copies of the report among Members of their respective Houses.
- (4) In this section—

*2004 amendments* means the amendments to this Act made by the *Gaming Machines (Miscellaneous) Amendment Act 2004*.

## 90—Minister to obtain report on Smartcard technology

- (1) Within 6 months after the Governor assents to the *Gaming Machines (Miscellaneous) Amendment Act 2004*, the Minister must obtain a report from the Authority on how Smartcard technology might be implemented with a view to significantly reducing problem gambling.
- (2) The Minister must, within 6 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.

## 91—Minister to obtain report on gambling rehabilitation programs

- (1) Within 6 months after the Governor assents to the *Gaming Machines (Miscellaneous) Amendment Act 2004*, the Minister must obtain a report from the Authority on the effectiveness of each gambling rehabilitation program conducted or funded (wholly or partly) by the State Government.
- (2) The Minister must, within 6 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.

## **Schedule 1—Gaming machine licence conditions**

The conditions to which a gaming machine licence will be subject are as follows:

- (a) that the licensee will use only approved gaming machines, approved games and prescribed gaming machine components in the gaming operations conducted pursuant to the licence; and
- (b) that the licensee will not sell or otherwise dispose of a gaming machine or prescribed gaming machine component except with the approval of the Commissioner; and
- (c) that the licensee will conduct the gaming operations only within the area, or areas, designated in the licence as the gaming area, or areas, for the premises; and
- (ca) that the licensee will not have in the licensee's possession more gaming machines than the number of gaming machine entitlements held in respect of the licensed premises; and
- (d) that the licensee will not have in any gaming area on the licensed premises a greater number of gaming machines than the number fixed by the Commissioner as the maximum for that area; and
- (e) that the licensee will not conduct the gaming operations within a gaming area unless the layout of the gaming machines within the area is in accordance with the layout approved by the Commissioner; and
- (f) that the licensee will not make any structural or other alterations within a gaming area on the licensed premises except with the approval of the Commissioner; and
- (g) that the licensee will not conduct the gaming operations outside the hours specified in the licence; and
- (j) that the licensee will not engage any person other than the holder of a gaming machine service licence to install, service or repair a gaming machine, gaming machine component or gaming equipment; and
- (k) that the licensee will not commence to conduct gaming operations pursuant to the licence until—
  - (i) he or she has entered into an arrangement, the terms of which have been approved by the Commissioner, for the monitoring by computer of the operation of all gaming machines on the licensed premises and that arrangement has been implemented; and
  - (ii) each gaming machine has been inspected and sealed by an authorised officer or approved gaming machine technician; and
  - (iii) such of the gaming equipment on the premises as the Commissioner may direct has been inspected and sealed by an authorised officer; and
- (l) that the licensee will not purchase for use, or use, in gaming machines any tokens other than approved gaming tokens that bear unique identification approved by the Commissioner; and
- (m) that the licensee will not purchase gaming tokens from a person other than an approved manufacturer of gaming tokens; and

- (n) that the licensee will not permit a gaming machine to be operated unless the machine, or the approved game played on the machine, returns winnings to players at a rate that is not less than—
  - (i) in the case of a machine or game installed before the commencement of this paragraph—85 per cent;
  - (ii) in the case of a machine or game installed after that commencement—87.5 per cent,of the total amount of all bets made on the machine; and
- (o) such other conditions (if any) as the Commissioner thinks fit and specifies in the licence.

## **Schedule 2—Gaming machine monitor licence conditions**

The conditions to which the gaming machine monitor licence will be subject are as follows:

- (a) a condition that the licensee will not charge any fee for any service provided by the licensee in the course of carrying out the undertaking authorised by the licence unless the fee is in accordance with a scale of fees approved by the Minister for the purpose;
- (b) a condition that the licensee will comply with such directions as the Minister or Commissioner may give in relation to—
  - (i) the keeping of books, accounts, financial statements and other records, and the manner in which they are to be kept and preserved, by the licensee in relation to the undertaking authorised by the licence; and
  - (ii) the furnishing of reports to the Minister or Commissioner on the financial affairs of the licensee in respect of that undertaking;
- (c) a condition that the licensee will not employ any person to carry out duties in connection with the undertaking authorised by the licence unless that person has first been approved by the Commissioner;
- (d) a condition that the licensee will not modify in any way the monitoring system operated pursuant to the licence without the prior approval of the Commissioner;
- (e) a condition that the licensee will not, in the course of carrying out the undertaking authorised by the licence, do any other specified thing without the prior approval of the Commissioner;
- (f) a condition that the licensee must modify or upgrade the monitoring system operated pursuant to the licence as the Commissioner may from time to time reasonably require;
- (g) a condition that the licensee will comply with such other directions as the Commissioner may, in the interests of ensuring the efficient and effective monitoring of all gaming operations conducted pursuant to this Act, give to the licensee in relation to carrying out the undertaking authorised by the licence;
- (h) such other conditions (if any) as the Commissioner thinks fit and specifies in the licence.

## **Schedule 3—Special provision for licence for Roosters Club Incorporated**

### **1—Gaming machine licence purportedly granted to Roosters Club Incorporated**

- (1) Despite section 15A, the gaming machine licence purportedly granted by the Commissioner to The Roosters Club Incorporated in respect of premises at 255 Main North Road, Sefton Park, is to be taken to have been validly granted.
- (2) The licence will, if still in force on the relevant date, be taken to be suspended as from that date (but may be surrendered for the purposes of this Act by the licensee after that date despite its suspension).
- (3) The *relevant date* is the date on which section 16 of this Act, as enacted by the *Gaming Machines (Miscellaneous) Amendment Act 2004*, comes into operation.

### **2—Expiry of Schedule**

This Schedule will expire on a day to be fixed by proclamation.

## **Schedule 4—Transitional provision**

### **1—Gaming machine entitlements**

If—

- (a) an application for a gaming machine licence was made before 7 December 2000; and
- (b) the application is granted after the commencement of this Schedule,

the Commissioner may issue up to 32 new gaming machine entitlements to the licensee.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- 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](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1992	49	<i>Gaming Machines Act 1992</i>	17.9.1992	1.7.1993 ( <i>Gazette</i> 24.6.1993 p2046)
1994	58	<i>Gaming Machines (Prohibition of Cross Holdings, Profit Sharing, etc.) Amendment Act 1994</i>	27.10.1994	1.7.1993 except s 3—1.8.1994: s 2
1995	13	<i>Statutes Amendment (Gaming Supervision) Act 1995</i>	23.3.1995	1.7.1995 ( <i>Gazette</i> 29.6.1995 p2972)
1996	22	<i>Gaming Machines (Miscellaneous) Amendment Act 1996</i>	24.4.1996	1.7.1996 ( <i>Gazette</i> 6.6.1996 p2874)
1997	72	<i>Gaming Machines (Gaming Venues in Shopping Centres) Amendment Act 1997</i>	18.12.1997	18.12.1997 except s 3—17.8.1997: s 2
1998	38	<i>Gaming Machines (Gaming Tax) Amendment Act 1998</i>	30.7.1998	30.7.1998
2000	27	<i>Gaming Machines (Miscellaneous) Amendment Act 2000</i>	29.6.2000	1.7.2000: s 2
2000	85	<i>Gaming Machines (Freeze on Gaming Machines) Amendment Act 2000</i>	14.12.2000	14.12.2000
2001	18	<i>Statutes Amendment (Gambling Regulation) Act 2001</i>	31.5.2001	Pt 4 (s 21)—31.5.2001: s 2(1) except Pt 4 (ss 20, 22—29)—1.10.2001 ( <i>Gazette</i> 13.9.2001 p4116)
2002	5	<i>Gaming Machines (Limitation on Exception to Freeze) Amendment Act 2002</i>	25.7.2002	25.7.2002
2002	31	<i>Gaming Machines (Gaming Tax) Amendment Act 2002</i>	7.11.2002	7.11.2002
2003	5	<i>Gaming Machines (Extension of Freeze on Gaming Machines) Amendment Act 2003</i>	29.5.2003	29.5.2003

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2003	7	<i>Gaming Machines (Roosters Club Incorporated Licence) Amendment Act 2003</i>	5.6.2003	5.6.2003
2004	15	<i>Gaming Machines (Extension of Freeze) Amendment Act 2004</i>	27.5.2004	27.5.2004
2004	28	<i>State Procurement Act 2004</i>	29.7.2004	Sch 1 (cl 2)—4.10.2005 ( <i>Gazette 15.9.2005 p3343</i> )
2004	46	<i>Gaming Machines (Miscellaneous) Amendment Act 2004</i>	9.12.2004	9.12.2004: s 2(2) except ss 5—8, 10—18, 20, 21, 23, 25—29, 32, 33, new ss 48, 49 & 50A (as inserted by s 34), 36—42, 44, 45, 46(1), (3) & (4) and 48—1.2.2005 ( <i>Gazette 13.1.2005 p68</i> ) and except ss 9 & 19—1.7.2005 ( <i>Gazette 19.5.2005 p1293</i> ) and except ss 22, 24, 30, 31, new s 50 (as inserted by s 34), 35, 43 and 46(2)—1.7.2006 ( <i>Gazette 22.6.2006 p2012</i> )
2005	22	<i>Statutes Amendment (Liquor, Gambling and Security Industries) Act 2005</i>	9.6.2005	Pt 2 (ss 4(4), 5—24), Sch 1 (cl 1) & Sch 2—8.12.2005 ( <i>Gazette 8.12.2005 p4195</i> ); s 4(1)—(3) & (5)—1.2.2007 ( <i>Gazette 1.2.2007 p323</i> )
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 39 (ss 112—114)—1.6.2007 ( <i>Gazette 26.4.2007 p1352</i> )
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 66 (s 161)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )
2010	28	<i>Gaming Machines (Miscellaneous) Amendment Act 2010</i>	9.12.2010	Pt 2 (ss 4(2), (5), 5, 6, 8, 9, 22(1), (2), 27, 35, 37, 38(1), (2), 39—49, 52, 54, 56, 57(1), (2) & Sch 1 (cl 6))—1.1.2011 ( <i>Gazette 16.12.2010 p5695</i> ); ss 4(1), (4), (6)—(9), 7, 10, 11, 13—17, 19(1), 20, 21, 22(4), 23—26, 29, new s 47 (as inserted by s 36), 51, 55, 57(3) & Sch (cll 4 & 5)—1.6.2011 ( <i>Gazette 26.5.2011 p1582</i> ); ss 4(3), 12, 18, 22(3), 28, 30—34, new s 47A (as inserted by s 36), 38(3), 50, 53—1.7.2011 ( <i>Gazette 30.6.2011 p2869</i> ); ss 19(2) & 57(4)—9.12.2012 ( <i>Gazette 20.9.2012 p4489</i> )
2011	36	<i>Statutes Amendment (Directors' Liability) Act 2011</i>	22.9.2011	Pt 10 (s 12)—1.1.2012 ( <i>Gazette 15.12.2011 p4988</i> )
2012	19	<i>Statutes Amendment (Criminal Intelligence) Act 2012</i>	24.5.2012	<b>Pt 4 (s 8)—12.7.2012 (<i>Gazette 12.7.2012 p3110</i>)</b>

## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>deleted by 72/1997 s 4 (Sch)</i>	18.12.1997
s 3		

s 3(1)		
advanced problem gambling intervention training	inserted by 28/2010 s 4(1)	1.6.2011
advertising code of practice	inserted by 28/2010 s 4(1)	1.6.2011
approved crowd controller	inserted by 22/2005 s 4(1)	1.2.2007
approved gaming machine employee	inserted by 22/2005 s 4(2)	1.2.2007
approved gaming machine manager	inserted by 22/1996 s 3	1.7.1996
	amended by 46/2004 s 20	1.2.2005
approved gaming machine technician	inserted by 28/2010 s 4(2)	1.1.2011
authorised officer	amended by 22/2005 Sch 2	8.12.2005
authorised person	substituted by 22/2005 s 4(3)	1.2.2007
Authority	substituted by 13/1995 s 11(a)	1.7.1995
	substituted by 18/2001 s 20(a)	1.10.2001
beneficiary	inserted by 31/2002 s 2(a)	7.11.2002
<i>the Board</i>	<i>deleted by 28/2004 Sch 1 cl 2</i>	<i>4.10.2005</i>
<i>Board</i>	<i>inserted by 28/2004 Sch 1 cl 2</i>	<i>4.10.2005</i>
	<i>deleted by 28/2010 4(3)</i>	<i>1.7.2011</i>
cash facility	inserted by 18/2001 s 20(b)	1.10.2001
category A, B, C or D offence	inserted by 28/2010 s 4(4)	1.6.2011
certificate	inserted by 28/2010 s 4(4)	1.6.2011
club licence	amended by 72/1997 s 4 (Sch)	18.12.1997
Club One	inserted by 46/2004 s 5(1)	1.2.2005
the Commissioner	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 18/2001 s 20(c)	1.10.2001
the Court	inserted by 13/1995 s 11(b)	1.7.1995
criminal intelligence	inserted by 22/2005 s 4(4)	8.12.2005
	<b>amended by 19/2012 s 8</b>	<b>12.7.2012</b>
domestic partner	inserted by 43/2006 s 112(1)	1.6.2007
gaming equipment	amended by 28/2010 s 4(5)	1.1.2011
gaming machine entitlement	inserted by 46/2004 s 5(2)	1.2.2005
<i>general facility licence</i>	<i>deleted by 72/1997 s 4 (Sch)</i>	<i>18.12.1997</i>
hotel licence	amended by 72/1997 s 4 (Sch)	18.12.1997
liquor licence	amended by 72/1997 s 4 (Sch)	18.12.1997

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mandatory provision	inserted by 28/2010 s 4(6)	1.6.2011
non-profit association	inserted by 46/2004 s 5(3)	1.2.2005
officer	inserted by 31/2002 s 2(b)	7.11.2002
proposed premises certificate	inserted by 28/2010 s 4(7)	1.6.2011
responsible gambling agreement	inserted by 28/2010 s 4(7)	1.6.2011
responsible gambling code of practice	inserted by 28/2010 s 4(7)	1.6.2011
responsible person	inserted by 22/2005 s 4(5)	1.2.2007
social effect certificate	inserted by 28/2010 s 4(8)	1.6.2011
social effect inquiry	inserted by 28/2010 s 4(8)	1.6.2011
social effect principles	inserted by 28/2010 s 4(8)	1.6.2011
special circumstances licence	inserted by 72/1997 s 4 (Sch)	18.12.1997
spouse	inserted by 43/2006 s 112(2)	1.6.2007
trust	inserted by 31/2002 s 2(c)	7.11.2002
trust or corporate entity	inserted by 31/2002 s 2(c)	7.11.2002
variation of licence	inserted by 28/2010 s 4(9)	1.6.2011
s 3(2)	substituted by 31/2002 s 2(d)	7.11.2002
s 3(3)	inserted by 31/2002 s 2(d)	7.11.2002
s 4		
s 4(1)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 4(1a)	inserted by 28/2010 s 5	1.1.2011
s 4(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
Pt 2		
Pt Div 1		
s 5	substituted by 13/1995 s 12	1.7.1995
s 6		
s 6(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 7		
s 7(2)	amended by 22/2005 s 5(1)	8.12.2005
s 7(3)	deleted by 22/2005 s 5(2)	8.12.2005
	inserted by 28/2010 s 6	1.1.2011
s 7(4)	inserted by 28/2010 s 6	1.1.2011
s 7A	inserted by 46/2004 s 21	1.2.2005

s 7A(1)	amended by 28/2010 s 7(1)	1.6.2011
s 7A(3)	amended by 28/2010 s 7(2)	1.6.2011
s 8		
s 8(1)	amended by 31/2002 s 3	7.11.2002
s 8(2)	amended by 22/2005 Sch 2	8.12.2005
s 8A	inserted by 28/2010 s 8	1.1.2011
s 9	amended by 28/2010 s 9	1.1.2011
Pt 2 Div 3		
ss 10A and 10B	inserted by 28/2010 s 10	1.6.2011
s 11	substituted by 13/1995 s 13	1.7.1995
s 11(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
ss 12 and 13	<i>deleted by 13/1995 s 13</i>	1.7.1995
Pt 2 Div 4	inserted by 22/2005 s 6	8.12.2005
s 12		
s 12(2)	amended by 28/2010 s 11	1.6.2011
Pt 3		
Pt 3 Div 1		
s 14		
s 14(1)	amended by 46/2004 s 6(1)	1.2.2005
	amended by 46/2004 s 22(1), (2)	1.7.2006
	amended by 28/2010 s 12(1)	1.7.2011
	(c) deleted by 28/2010 s 12(2)	1.7.2011
s 14(2)	substituted by 46/2004 ss 6(2)	1.2.2005
	substituted by 46/2004 s 22(3)	1.7.2006
	(b) deleted by 28/2010 12(3)	1.7.2011
Pt 3 Div 2		
<i>s 14A before deletion by 46/2004</i>	<i>inserted by 85/2000 s 2</i>	14.12.2000
s 14A(2)	<i>amended by 5/2002 s 2</i>	25.7.2002
s 14A(6)	<i>amended by 18/2001 s 21</i>	31.5.2001
	<i>amended by 5/2003 s 3</i>	29.5.2003
	<i>substituted by 15/2004 s 3</i>	27.5.2004
	<i>deleted by 46/2004 s 4</i>	9.12.2004
s 14A	<i>deleted by 46/2004 s 7</i>	1.2.2005
s 15		
s 15(1)	amended by 58/1994 s 3	1.8.1994
	amended by 22/1996 s 4(a)	1.7.1996
	amended by 72/1997 s 4 (Sch)	18.12.1997
	(d) deleted by 46/2004 s 23	1.2.2005
s 15(1a)	inserted by 46/2004 s 8(1)	1.2.2005
s 15(2)	amended by 22/1996 s 4(b)	1.7.1996
s 15(3a)	inserted by 22/1996 s 4(c)	1.7.1996
s 15(4)	substituted by 28/2010 s 13	1.6.2011

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s 15(5)	substituted by 46/2004 s 8(2)	1.2.2005
	substituted by 28/2010 s 13	1.6.2011
s 15A	inserted by 72/1997 s 3	17.8.1997
s 16	substituted by 46/2004 s 9	1.7.2005
s 17		
s 17(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
ss 17A and 17B	inserted by 28/2010 s 14	1.6.2011
Pt 3 Div 3		
heading	substituted by 28/2010 s 15	1.6.2011
s 18		
s 18(1)	amended by 28/2010 s 16(1)—(4)	1.6.2011
s 18(4)	amended by 28/2010 s 16(5)	1.6.2011
s 19		
s 19(1)	amended by 31/2002 s 4(a)	7.11.2002
s 19(2)	amended by 31/2002 s 4(b)	7.11.2002
	amended by 22/2005 s 7(1), (2)	8.12.2005
s 20	deleted by 58/1994 s 7 (Sch)	1.7.1993
	inserted by 22/2005 s 8	8.12.2005
s 23		
s 23(1)	amended by 31/2002 s 5(a), (b)	7.11.2002
s 23(2)	<i>deleted by 31/2002 s 5(c)</i>	7.11.2002
s 23A	inserted by 28/2010 s 17	1.6.2011
s 24		
s 24(1)	amended by 46/2004 s 10	1.2.2005
s 24(3)	inserted by 22/2005 s 9	8.12.2005
s 24A	inserted by 46/2004 s 11	1.2.2005
<i>s 26 before deletion by 28/2010</i>		
s 26(1)	<i>substituted by 46/2004 s 24(1)</i>	1.7.2006
s 26(2)	<i>amended by 46/2004 s 24(2)</i>	1.7.2006
s 26	<i>deleted by 28/2010 s 18</i>	1.7.2011
s 26A	inserted by 31/2002 s 6	7.11.2002
s 27		
s 27(4)—(6)	<i>deleted by 28/2010 s 19(1)</i>	1.6.2011
s 27(7)	substituted by 22/1996 s 5	1.7.1996
	amended by 28/2010 s 19(2)	uncommenced—not incorporated
s 27AA	inserted by 28/2010 s 20	1.6.2011
Pt 3 Div 3A	inserted by 46/2004 s 12	1.2.2005
s 27A		
s 27A(3) and (4)	inserted by 28/2010 s 21	1.6.2011
s 27B		
s 27B(1)	amended by 28/2010 s 22(1), (2)	1.1.2011

s 27B(2)	substituted by 28/2010 s 22(3)	1.7.2011
s 27B(8)	inserted by 28/2010 s 22(4)	1.6.2011
Pt 3 Div 4		
s 28		
s 28(1)	amended by 22/1996 s 6(a)	1.7.1996
	amended by 72/1997 s 4 (Sch)	18.12.1997
s 28(1a) and (1b)	inserted by 22/1996 s 6(b)	1.7.1996
s 28(3)	amended by 22/1996 s 6(c), (d)	1.7.1996
	amended by 31/2002 s 7	7.11.2002
s 28(4)	substituted by 22/2005 s 10	8.12.2005
s 28(5)	amended by 22/1996 s 6(e)	1.7.1996
	amended by 72/1997 s 4 (Sch)	18.12.1997
s 28(9)	amended by 22/1996 s 6(f)	1.7.1996
s 28(10)	amended by 22/1996 s 6(g)	1.7.1996
ss 28AA and 28AAB	inserted by 22/2005 s 11	8.12.2005
s 28A	inserted by 31/2002 s 8	7.11.2002
Pt 3 Div 4A	inserted by 46/2004 s 25	1.2.2005
Pt 3 Div 5		
s 29		
s 29(1)	amended by 28/2010 s 23(1)	1.6.2011
s 29(2)	substituted by 27/2000 s 3	1.7.2000
	amended by 28/2010 s 23(2), (3)	1.6.2011
s 30		
s 30(2)	amended by 22/2005 s 12	8.12.2005
s 30(2a)	inserted by 46/2004 s 26(1)	1.2.2005
s 30(7)	inserted by 46/2004 s 26(2)	1.2.2005
s 31		
s 31(1)	substituted by 22/2005 s 13	8.12.2005
Pt 3 Div 6		
heading	amended by 28/2010 s 24	1.6.2011
s 32A	inserted by 28/2010 s 25	1.6.2011
s 34	amended by 72/1997 s 4 (Sch)	18.12.1997
Pt 3 Div 7		
s 35A	inserted by 46/2004 s 27	1.2.2005
s 36		
s 36(1)	s 36(1) amended by 31/2002 s 9	7.11.2002
	s 36(1) amended by 46/2004 s 28(1)	1.2.2005
	s 36(1) redesignated as s 36 under <i>Legislation Revision and Publication Act 2002</i>	1.2.2005
	s 36 amended and redesignated as s 36(1) by 22/2005 s 14(1), (2)	8.12.2005
	amended by 28/2010 s 26	1.6.2011
s 36(2)	deleted by 46/2004 s 28(2)	1.2.2005

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	inserted by 22/2005 s 14(2)	8.12.2005
<i>s 36(3) and (4)</i>	<i>deleted by 46/2004 s 28(2)</i>	<i>1.2.2005</i>
s 36A	inserted by 46/2004 s 29	1.2.2005
s 36A(2)	amended by 22/2005 s 15	8.12.2005
s 36B	inserted by 46/2004 s 29	1.2.2005
s 36B(1)	amended by 28/2010 s 27	1.1.2011
Pt 4		
s 37		
s 37(1)	amended by 46/2004 s 13	1.2.2005
<i>s 37(2)</i>	<i>deleted by 22/1996 s 7</i>	<i>1.7.1996</i>
s 37(3)	inserted by 58/1994 s 4	1.7.1993
s 38	amended by 31/2002 s 10	7.11.2002
s 38A	inserted by 31/2002 s 11	7.11.2002
s 38B	inserted by 46/2004 s 30	1.7.2006
<i>s 39 before substitution by 28/2010</i>		
<i>s 39(3)</i>	<i>amended by 31/2002 s 12</i>	<i>7.11.2002</i>
	<i>amended by 43/2006 s 113</i>	<i>1.6.2007</i>
s 39	substituted by 28/2010 s 28	1.7.2011
s 40		
s 40(1)	s 40 redesignated as s 40(1) by 18/2001 s 22	1.10.2001
<i>s 40(2)</i>	<i>inserted by 18/2001 s 22</i>	<i>1.10.2001</i>
	<i>deleted by 28/2010 s 29(1)</i>	<i>1.6.2011</i>
s 40(3)	inserted by 18/2001 s 22	1.10.2001
s 40(4)	inserted by 28/2010 s 29(2)	1.6.2011
s 41A	inserted by 22/2005 s 16	8.12.2005
s 41A(1)	amended by 28/2010 s 30	1.7.2011
s 42		
s 42(1a)	inserted by 22/2005 s 17(1)	8.12.2005
s 42(3a)	inserted by 46/2004 s 31(1)	1.7.2006
s 42(4)	amended by 31/2002 s 13	7.11.2002
<i>s 42(5)</i>	<i>deleted by 28/2010 31(1)</i>	<i>1.7.2011</i>
s 42(6)	amended by 22/2005 s 17(2), (3)	8.12.2005
	amended by 46/2004 s 31(2)	1.7.2006
	amended by 28/2010 s 31(2)	1.7.2011
s 42A	inserted by 46/2004 s 32	1.2.2005
s 43		
s 43(1)	substituted by 46/2004 s 33	1.2.2005
	substituted by 22/2005 s 18	8.12.2005
	amended by 28/2010 s 32	1.7.2011
s 44		
s 44(2)	amended by 22/2005 s 19	8.12.2005

Pt 4A	inserted by 58/1994 s 5	1.7.1993
s 44A		
s 44A(4)	amended by 22/2005 Sch 2	8.12.2005
	amended by 43/2006 s 114	1.6.2007
	amended by 28/2010 s 33	1.7.2011
Pt 5		
s 45	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 34	1.7.2011
s 46	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 35	1.1.2011
s 47	amended by 72/1997 s 4 (Sch)	18.12.1997
	substituted by 28/2010 s 36	1.6.2011
s 47A	inserted by 28/2010 s 36	1.7.2011
<i>s 48 before substitution by 46/2004</i>		
s 48(1)	<i>amended by 72/1997 s 4 (Sch)</i>	<i>18.12.1997</i>
s 48(2)	<i>amended by 72/1997 s 4 (Sch)</i>	<i>18.12.1997</i>
	<i>amended by 31/2002 s 14</i>	<i>7.11.2002</i>
s 48	substituted by 46/2004 s 34	1.2.2005
s 49	amended by 72/1997 s 4 (Sch)	18.12.1997
	substituted by 46/2004 s 34	1.2.2005
s 50	substituted by 46/2004 s 34	1.7.2006
s 50A	inserted by 46/2004 s 34	1.2.2005
	amended by 28/2010 s 37	1.1.2011
s 51		
s 51(1)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 31/2002 s 15	7.11.2002
	amended by 28/2010 s 38(1)	1.1.2011
s 51(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 31/2002 s 15	7.11.2002
	amended by 28/2010 s 38(2)	1.1.2011
s 51(3)	amended by 58/1994 s 7 (Sch)	1.7.1993
	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 31/2002 s 15	7.11.2002
s 51(4)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 31/2002 s 15	7.11.2002
s 51(4a)	inserted by 46/2004 s 35	1.7.2006
s 51(5)	amended by 72/1997 s 4 (Sch)	18.12.1997
	(c) deleted by 28/2010 s 38(3)	1.7.2011
s 51A	inserted by 22/1996 s 8	1.7.1996
s 51A(1) and (5)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 51A(6)	<i>deleted by 18/2001 s 23</i>	<i>1.10.2001</i>

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s 51B	inserted by 18/2001 s 24	1.10.2001
s 52		
s 52(1)	s 52 amended by 72/1997 s 4 (Sch)	18.12.1997
	s 52 amended by 18/2001 s 25	1.10.2001
	s 52 amended and redesignated as s 52(1) by 46/2004 s 36(1)—(3)	1.2.2005
s 52(2)	inserted by 46/2004 s 36(3)	1.2.2005
s 53	amended by 72/1997 s 4 (Sch)	18.12.1997
s 53A	inserted by 18/2001 s 26	1.10.2001
s 53B	inserted by 46/2004 s 37	1.2.2005
s 54	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 39	1.1.2011
s 55	amended by 72/1997 s 4 (Sch)	18.12.1997
s 56		
s 56(1), (2) and (4)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 57		
s 57(3)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 40	1.1.2011
s 58		
s 58(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 58(5)	inserted by 22/2005 s 20	8.12.2005
	amended by 28/2010 41(1), (2)	1.1.2011
s 59		
s 59(1)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 59(4)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 46/2004 s 38(1)	1.2.2005
s 59(5)	inserted by 46/2004 s 38(2)	1.2.2005
s 60		
s 60(3)	inserted by 22/2005 s 21	8.12.2005
s 62	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 42	1.1.2011
s 63	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 43	1.1.2011
s 64	amended by 58/1994 s 7 (Sch)	1.7.1993
	amended by 72/1997 s 4 (Sch)	18.12.1997
	substituted by 28/2010 s 44	1.1.2011
ss 65 and 66	amended by 72/1997 s 4 (Sch)	18.12.1997
s 67		
s 67(1)	amended by 22/2005 s 22(1)	8.12.2005
s 67(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 67(3)	amended by 22/2005 s 22(2), (3)	8.12.2005
s 67(4)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 67(4a) and (4b)	inserted by 22/2005 s 22(4)	8.12.2005

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s 68		
s 68(1)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 31/2002 s 16(a)	7.11.2002
s 68(2)	amended by 31/2002 s 16(b)	7.11.2002
	substituted by 46/2004 s 14	1.2.2005
s 68(3)	<i>inserted by 58/1994 s 6</i>	1.7.1993
	<i>deleted by 46/2004 s 14</i>	1.2.2005
s 68(4)	<i>inserted by 58/1994 s 6</i>	1.7.1993
	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 31/2002 s 16(c)	7.11.2002
	<i>deleted by 46/2004 s 14</i>	1.2.2005
s 68(5)	<i>inserted by 58/1994 s 6</i>	1.7.1993
	<i>deleted by 46/2004 s 14</i>	1.2.2005
Pt 6		
s 69		
s 69(1)	substituted by 13/1995 s 14(a)	1.7.1995
	substituted by 46/2004 s 39	1.2.2005
s 69(2)	substituted by 13/1995 s 14(a)	1.7.1995
s 69(3)	amended by 13/1995 s 14(b)	1.7.1995
s 69(5)	amended by 13/1995 s 14(c)	1.7.1995
s 69(6a)	inserted by 28/2010 s 45	1.1.2011
s 69(7)	amended by 13/1995 s 14(d)	1.7.1995
s 70		
s 70(1)	amended by 22/2005 Sch 2	8.12.2005
s 70(2)	substituted by 13/1995 s 15	1.7.1995
	substituted by 46/2004 s 15	1.2.2005
s 70(3)	inserted by 46/2004 s 15	1.2.2005
s 70A	inserted by 22/2005 s 23	8.12.2005
Pt 7		
s 71		
s 71(6a)	inserted by 28/2010 s 46	1.1.2011
s 71(7)	amended by 72/1997 s 4 (Sch)	18.12.1997
Pt 8		
s 71A	inserted by 46/2004 s 16	1.2.2005
s 72	amended by 22/1996 s 9	1.7.1996
	substituted by 31/2002 s 17	7.11.2002
s 72A	inserted by 22/1996 s 10	1.7.1996
s 72A(1)	amended by 27/2000 s 4(a)	1.7.2000
	substituted by 31/2002 s 18(a)	7.11.2002
s 72A(2)	<i>deleted by 27/2000 s 4(b)</i>	1.7.2000
s 72A(3)	amended by 27/2000 s 4(c)	1.7.2000
s 72A(3aa)	inserted by 31/2002 s 18(b)	7.11.2002
s 72A(3a) and (3b)	inserted by 27/2000 s 4(d)	1.7.2000

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Legislative history

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s 72A(4)	amended by 31/2002 s 18(c)—(e)	7.11.2002
	amended by 46/2004 s 40(1)	1.2.2005
s 72A(5)	amended by 46/2004 s 40(2)	1.2.2005
s 72A(6)	<i>amended by 38/1998 s 2(a)—(c)</i>	30.7.1998
	<i>amended by 27/2000 s 4(e), (f)</i>	1.7.2000
	<i>deleted by 31/2002 s 18(f)</i>	7.11.2002
s 72A(7)—(9)	<i>deleted by 31/2002 s 18(f)</i>	7.11.2002
s 72A(10)	<i>inserted by 38/1998 s 2(d)</i>	30.7.1998
	<i>deleted by 31/2002 s 18(f)</i>	7.11.2002
s 72B	inserted by 22/1996 s 10	1.7.1996
s 72B(2a)	inserted by 46/2004 s 41(1)	1.2.2005
s 72B(5)	<i>deleted by 46/2004 s 41(2)</i>	1.2.2005
s 73		
s 73(1)	amended by 22/1996 s 11(a)	1.7.1996
s 73(3)	amended by 22/1996 s 11(b), (c)	1.7.1996
s 73(4)	amended by 72/1997 s 4 (Sch)	18.12.1997
s 73A	inserted by 22/1996 s 12	1.7.1996
s 73A(3) and (4)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 47(1)	1.1.2011
s 73A(5)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 47(2)	1.1.2011
s 73A(7)	inserted by 28/2010 s 47(3)	1.1.2011
s 73B	inserted by 22/1996 s 12	1.7.1996
s 73B(3) and (5)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 48	1.1.2011
s 73BA	inserted by 46/2004 s 42	1.2.2005
s 73BA(3) and (4)	amended by 28/2010 s 49	1.1.2011
s 73C	inserted by 22/1996 s 12	1.7.1996
s 73C(4)	inserted by 31/2002 s 19	7.11.2002
Pt 9		
s 74		
s 74(3)	amended by 46/2004 s 43	1.7.2006
	substituted by 28/2010 s 50	1.7.2011
ss 74A and 74B	<i>inserted by 18/2001 s 27</i>	1.10.2001
	<i>deleted by 28/2010 s 51</i>	1.6.2011
s 76A	inserted by 28/2010 s 52	1.1.2011
s 77		
s 77(1)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 53(1)	1.7.2011
s 77(2)	<i>amended by 72/1997 s 4 (Sch)</i>	18.12.1997
	<i>deleted by 28/2010 s 53(2)</i>	1.7.2011
s 77(3)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 53(3)	1.7.2011

s 78	amended by 72/1997 s 4 (Sch)	18.12.1997
s 79		
s 79(1)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 54(1), (2)	1.1.2011
s 79(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 54(1), (3)	1.1.2011
s 80	amended by 72/1997 s 4 (Sch)	18.12.1997
s 82		
s 82(1a)	inserted by 46/2004 s 44(1)	1.2.2005
s 82(2)	amended by 46/2004 s 44(2)	1.2.2005
s 83	<i>deleted by 84/2009 s 161</i>	<i>1.2.2010</i>
s 84	substituted by 72/1997 s 4 (Sch)	18.12.1997
	amended by 27/2000 s 5	1.7.2000
s 85	substituted by 31/2002 s 20	7.11.2002
s 85(1)	substituted by 36/2011 s 12(1)	1.1.2012
s 85(1a)—(1c)	inserted by 36/2011 s 12(1)	1.1.2012
s 85(3)	inserted by 46/2004 s 45	1.2.2005
s 85(4)	inserted by 36/3011 s 12(2)	1.1.2012
s 85A	inserted by 22/2005 s 24	8.12.2005
s 86		
s 86(1)	amended by 31/2002 s 21	7.11.2002
s 86A	<i>inserted by 46/2004 s 17</i>	<i>1.2.2005</i>
	<i>deleted by 28/2010 s 55</i>	<i>1.6.2011</i>
s 87		
s 87(2)	amended by 72/1997 s 4 (Sch)	18.12.1997
	amended by 28/2010 s 56(1)—(3)	1.1.2011
s 87(4)	inserted by 28/2010 s 56(4)	1.1.2011
ss 88—91	inserted by 46/2004 s 18	1.2.2005
Sch 1	heading substituted by 7/2003 s 3	5.6.2003
	amended by 18/2001 s 28	1.10.2001
	(h) and (i) deleted 46/2004 s 46(1)	1.2.2005
	amended by 46/2004 s 46(3), (4)	1.2.2005
	amended by 46/2004 s 19	1.7.2005
	amended by 46/2004 s 46(2)	1.7.2006
	amended by 28/2010 s 57(1), (2)	1.1.2011
	(na), (nb), (nc) deleted by 28/2010 s 57(3)	1.6.2011
	amended by 28/2010 s 57(4)	uncommenced—not incorporated
Sch 2	heading substituted by 7/2003 s 4	5.6.2003
Sch 3	will expire by proclamation: cl 2	
	inserted by 7/2003 s 5	5.6.2003
	<i>cl 1 before substitution by 46/2004</i>	

<i>cl 1(2)</i>	<i>amended by 15/2004 s 4</i>	27.5.2004
cl 1	substituted by 46/2004 s 47	9.12.2004
Sch 4	inserted by 46/2004 s 48	1.2.2005

## **Transitional etc provisions associated with Act or amendments**

### ***Gaming Machines (Prohibition of Cross Holdings, Profit Sharing, etc.) Amendment Act 1994***

#### **8—Transitional provisions**

- (1) Sections 4 and 5 of this Act do not affect a decision made by the Commissioner in relation to an application for a licence or an approval under the principal Act if the decision was made before 19 April 1994.
- (2) Section 5 of this Act does not prevent the Commissioner from granting an application for approval to a person to assume a position of authority in a body corporate that is the holder of a gaming machine licence if—
  - (a) the person was, before 19 April 1994, approved under the *Liquor Licensing Act 1985* to hold a position of authority in a body corporate that held a licence under that Act; and
  - (b) the body corporate held the gaming machine licence at the time that approval was granted; and
  - (c) the Commissioner is satisfied that the applicant or some other person incurred significant irrecoverable costs or expenses on the assumption that, because approval was granted under the *Liquor Licensing Act*, the application under the principal Act would be granted.

### ***Gaming Machines (Miscellaneous) Amendment Act 1996***

#### **13—Transitional provision**

The Commissioner must, in relation to a gaming machine licence that is in force as at the commencement of this section, vary the condition fixing the hours during which gaming operations may be conducted on the licensed premises to such extent (if any) as is necessary to ensure—

- (a) that gaming operations cannot be conducted on the premises on Christmas Day or Good Friday; and
- (b) that at other times there are at least 6 hours in each 24 hour period (which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours) during which gaming operations cannot be conducted on the premises.

### ***Statutes Amendment (Gambling Regulation) Act 2001***

#### **29—Transitional provision**

- (1) On the commencement of this section, the holder of a gaming machine licence will be taken to have adopted the codes of practice relating to advertising and responsible gambling approved by the Minister, by notice in the *Gazette*, for the purposes of this section.

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- (2) On approving a code of practice under this section, the Minister will cause a copy of the code to be given personally or by post to each holder of a gaming machine licence.
  - (3) The codes of practice referred to in subsection (1) will, for the purposes of the principal Act (as amended by this Act), be taken to be codes of practice approved under the Act by the Independent Gambling Authority.

### ***Gaming Machines (Limitation on Exception to Freeze) Amendment Act 2002***

#### **3—Transitional provision**

The amendments effected by section 2 apply in respect of applications for a gaming machine licence made on or after 8 May 2002 or made, but not determined, before that date.

### ***Statutes Amendment (Liquor, Gambling and Security Industries) Act 2005, Sch 1—Transitional provisions***

#### **1—Gaming Machines Act 1992**

- (1) An amendment to the *Gaming Machines Act 1992* effected by a provision of this Act applies in respect of an application under that Act if the application is determined after the commencement of that provision irrespective of whether the application was lodged before or after that commencement.
- (2) An amendment to the *Gaming Machines Act 1992* effected by a provision of this Act applies in respect of a licence or approval granted under that Act, or a person licensed or approved under that Act, whether the licence or approval was granted before or after the commencement of that provision.

### ***Gaming Machines (Miscellaneous) Amendment Act 2010, Sch 1—Transitional provisions***

#### **4—Principles**

- (1) Section 10A(5) and (7) of the *Gaming Machines Act 1992* as inserted by this Act do not apply to the first notice published in the Gazette under that section prescribing the principles for assessing whether a game is likely to lead to an exacerbation of problem gambling (and, consequently, consultation is not required and the notice need not be laid before both Houses of Parliament and is not subject to disallowance).
- (2) The Authority must ensure that the principles for assessing whether a game is likely to lead to an exacerbation of problem gambling first prescribed by the Authority are substantially in the form of the guidelines in force for the purposes of section 40 of the *Gaming Machines Act 1992* immediately before the commencement of this subsection.
- (3) Failure to comply with subclause (2) does not affect the validity of the principles.

#### **5—Application for gaming machine licence**

If an application for a gaming machine licence has been made but not determined before the commencement of section 13 of this Act—

- (a) section 15(4) of the *Gaming Machines Act 1992* as inserted by section 13 of this Act does not apply to the application; and

- (b) section 15(5) of the *Gaming Machines Act 1992* as in force immediately before its deletion by section 13 of this Act continues to apply to the application as if it had not been so deleted and had been redesignated as section 15(4).

## **6—Exemptions**

An exemption granted by notice in the Gazette under regulation 10(2) of the *Gaming Machines Regulations 1993* and in force immediately before the commencement of section 76A of the *Gaming Machines Act 1992* as inserted by this Act continues in force as if it had been granted under section 76A of the *Gaming Machines Act 1992*.

## **Historical versions**

Reprint No 1—27.10.1994

Reprint No 2—1.7.1995

Reprint No 3—1.7.1996

Reprint No 4—18.12.1997

Reprint No 5—30.7.1998

Reprint No 6—1.7.2000

Reprint No 7—14.12.2000

Reprint No 8—31.5.2001

Reprint No 9—1.10.2001

Reprint No 10—25.7.2002

Reprint No 11—7.11.2002

Reprint No 12—5.6.2003

27.5.2004

9.12.2004

1.2.2005

1.7.2005

4.10.2005

8.12.2005

1.7.2006

1.2.2007

1.6.2007

1.2.2010

1.1.2011

1.6.2011

1.7.2011

1.1.2012