

SOUTH AUSTRALIA

CASINO ACT 1997

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CASINO ACT 1997

being

Casino Act 1997 No. 31 of 1997

[Assented to 19 June 1997]¹

¹ Came into operation (except Parts 5 & 7 and s. 71) 11 September 1997: *Gaz.* 11 September 1997, p. 703; Parts 5 & 7 and s. 71 came into operation 19 June 1999 (by virtue of the Acts Interpretation Act 1915, s. 7(5)).

An Act to regulate the licensing and control of the casino at Adelaide; to repeal the Casino Act 1983; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Casino Act 1997*.

Commencement

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

Interpretation

3. In this Act, unless the contrary intention appears—

"**approved licensing agreement**"—*see section 16*;

"**authorised game**" means a game of chance authorised by or in accordance with the conditions of the casino licence;

"**authorised officer**" means—

- (a) the Commissioner; or
- (b) a member or the secretary of the Authority; or
- (c) a person authorised by the Commissioner to exercise the powers of an authorised officer under this Act;

"**Authority**" means the Gaming Supervisory Authority established under the *Gaming Supervisory Authority Act 1995*;

"**casino**" means the premises defined in the casino licence as the premises to which the licence relates;

"**casino duty agreement**"—*see section 17*;

"**casino licence**" means the licence (under this Act or the former Act) to operate the casino;

"**child**" means a person under the age of 18 years;

"**Commissioner**" means the Liquor and Gaming Commissioner;

"**compliance notice**"—*see section 58*;

"**executive officer**" of a body corporate is—

- (a) a secretary or public officer of the body corporate; or

- (b) a person responsible for managing the body corporate's business or any aspect of its business;

"**former Act**" means the *Casino Act 1983*;

"**gambling**" means the playing of a game for monetary or other stakes and includes making or accepting a wager;

"**gambling chips**" means chips or tokens used or capable of being used as gambling stakes or prizes;

"**police officer**" means any member of the police force;

"**staff member**"—*see section 28(4)*;

"**statutory default**"—*see section 56*;

"**substantial shareholder**" in a body corporate means a substantial shareholder as defined in Part 6.7 of the *Corporations Law*.

Close associates

4. Two persons are **close associates** if—

- (a) one is a spouse, parent, brother, sister or child of the other; or
- (b) they are members of the same household; or
- (c) they are in partnership; or
- (d) they are joint venturers; or
- (e) one is a body corporate and the other is a director or executive officer of the body corporate; or
- (f) one is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
- (g) one is a body corporate whose shares are listed on a stock exchange and the other is a substantial shareholder in the body corporate; or
- (h) one has a right to participate (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
- (i) one is in a position to exercise control or significant influence over the conduct of the other; or
- (j) a chain of relationships can be traced between them under any one or more of the above paragraphs.

**PART 2
LICENSING OF CASINO**

DIVISION 1—GRANT OF LICENCE

Grant of licence

5. The Governor may, on the recommendation of the Authority, grant a casino licence to an applicant for the licence.

Casino premises

6. (1) In the case of the first grant of a casino licence after the commencement of this Act, the licence may only be granted for premises in respect of which a casino licence is, or was last, in force.

(2) After the first grant of a casino licence under this Act, a casino licence may be granted for different premises (to take effect on or after the surrender or termination of an earlier licence) if the Authority, after conducting a public inquiry into the appropriateness of the new site, recommends the grant of the licence for those premises.

(3) The Governor may, on the recommendation of the Authority (made without public inquiry), redefine the boundaries of the casino premises, if the new boundaries consist only of an extension or contraction of the previous boundaries.

Restriction on number of licences

7. There is not to be more than one casino licence in force under this Act at the same time.

DIVISION 2—AUTHORITY CONFERRED BY LICENCE

Authority conferred by licence

8. (1) Despite any other law of the State, but subject to this Act—

- (a) the licensee may operate the casino in accordance with the conditions of the licence; and
- (b) a person may participate in an authorised game conducted at the casino.

(2) The operation of the casino in accordance with the licence does not, in itself, constitute a public or private nuisance.

DIVISION 3—TERM AND RENEWAL OF LICENCE

Term and renewal of licence

9. (1) The licence is to be granted for a term fixed under the approved licensing agreement.

(2) If before the end of a term for which the licence has been granted or renewed, the parties to the approved licensing agreement renegotiate the agreement, and the agreement as renegotiated is approved by the Authority, the Governor may renew the licence for a term fixed under the renegotiated agreement.

(3) However, the licensee is to have no entitlement to, or legitimate expectation of, renewal.

DIVISION 4—CONDITIONS OF LICENCE**Conditions of licence**

10. (1) The conditions of the licence consist of—

- (a) the conditions fixed by this Act; and
- (b) the conditions (**supplementary licence conditions**) fixed by or in accordance with the approved licensing agreement.

(2) Subject to the approved licensing agreement, the Governor may, on the recommendation of the Authority, vary supplementary licence conditions.

DIVISION 5—TRANSFER OF LICENCE**Transfer of licence**

11. (1) The Governor may, on the recommendation of the Authority, approve the transfer of the casino licence.

(2) On a transfer of the licence—

- (a) the transferee succeeds to all the rights and obligations of the transferor under the approved licensing agreement and the casino duty agreement; and
- (b) the approved licensing agreement and the casino duty agreement govern the conditions of the licence in the same way and to the same extent as before the transfer.

DIVISION 6—DEALINGS AFFECTING CASINO LICENCE**Dealing with licence and associated business assets**

12. The licensee cannot mortgage, charge or encumber any of the following assets without the approval of the Authority—

- (a) the casino licence; or
- (b) business assets associated with the operation of the casino (including incidental assets such as the facilities for providing food and refreshments for casino patrons).

Dealings affecting casino business

13. (1) The licensee must not enter into a transaction under which the licensee disposes of, or grants an interest in, the business conducted under the casino licence to someone else without the approval of the Authority.

(2) The following are (for example) transactions under which the licensee grants an interest in the business conducted under the casino licence—

- (a) a partnership agreement that relates to business conducted or to be conducted under the licence;
- (b) an agreement or arrangement under which a person participates in proceeds or profits of business conducted or to be conducted under the licence;

- (c) an agreement or arrangement under which the licensee remunerates another by reference to proceeds or profits of the business or any aspect of the business.

(3) However, this section does not invalidate an agreement or arrangement made subject to a condition precedent under which it is not to take effect until approved by the Authority.

Transactions affecting control of the licensee

14. If a person or a group of persons who are close associates of each other attains a position of control or significant influence over a licensee without the Authority's approval—

- (a) the transactions under which the position of control or influence was attained are void; and
- (b) the licensee is liable to disciplinary action.

DIVISION 7—SURRENDER OF LICENCE

Surrender of licence

15. (1) The licensee may, with the approval of the Authority, surrender the casino licence.

(2) The surrender of the casino licence does not affect liabilities incurred by the licensee before the surrender takes effect.

DIVISION 8—AGREEMENT WITH LICENSEE

Approved licensing agreement

16. (1) There is to be an agreement (the **approved licensing agreement**) between the licensee and the Minister about—

- (a) the operation of the casino; and
- (b) the term of the licence; and
- (c) the conditions of the licence; and
- (d) the performance of the licensee's responsibilities under the licence or this Act.

(2) The agreement may deal with other subjects relevant to the casino.

(3) The agreement—

- (a) is to be entered into with a prospective licensee before the licence is granted or with a licensee before renewal of the licence; and
- (b) must be consistent with the provisions of this Act; and
- (c) has no effect unless approved by the Authority.

(4) If the agreement so provides, specified provisions of the agreement become conditions of the casino licence.

(5) The agreement may be varied by a later agreement between the parties but such a variation must be consistent with the provisions of this Act and has no effect unless approved by the Authority.

(6) The agreement may contain an assurance, on terms and conditions fixed in the agreement, that the exclusiveness of the licensee's right to operate a casino in this State will not be impugned during a period set out in the agreement.

(7) Despite the above provisions for approval of the agreement or a variation of the agreement by the Authority, an assurance under subsection (6) or a variation of the terms and conditions of such an assurance is not subject to approval by the Authority.

Casino duty agreement

17. (1) There is to be an agreement (the **casino duty agreement**) between the licensee and the Treasurer—

- (a) fixing the amount, or basis of calculation, of casino duty; and
- (b) providing for the payment of casino duty; and
- (c) dealing with interest and penalties to be paid for late payment or non-payment of casino duty.

(2) The agreement is to be entered into with a prospective licensee before the licence is granted or with a licensee before renewal of the licence.

(3) The agreement may be varied by a later agreement between the parties.

(4) The casino duty agreement or an agreement for variation of the casino duty agreement operates as a deed—despite the absence of the formalities of execution and delivery.

(5) The casino duty agreement does not attract stamp duty.

(6) Before entering into a casino duty agreement, the Treasurer may require the licensee or prospective licensee to give security for compliance with its obligations under the agreement.

Agreements to be tabled in Parliament

18. (1) The Minister must, within 12 sitting days after the Authority approves—

- (a) an agreement entered into by the Minister with a view to the agreement becoming an approved licensing agreement under this Division; or
- (b) an agreement for the variation of an approved licensing agreement,

have copies of the agreement laid before both Houses of Parliament.

(2) The Treasurer must, within 12 sitting days after entering into a casino duty agreement or an agreement for the variation of a casino duty agreement, have copies of the agreement laid before both Houses of Parliament.

**PART 3
APPLICATIONS FOR GRANT OR TRANSFER OF LICENCE**

DIVISION 1—ELIGIBILITY TO APPLY

Eligibility of applicants

19. An applicant for the grant or transfer of the casino licence must be a body corporate.

DIVISION 2—MAKING OF APPLICATIONS

Applications

20. (1) Applications for the grant, renewal or transfer of the casino licence are to be made to the Authority.

(2) An application—

- (a) must be in the form required by the Authority; and
- (b) in the case of an application for the transfer of the licence—must be made jointly by the proposed transferor and transferee; and
- (c) must be supported by the information required by the Authority; and
- (d) in the case of an application for the licence that is to be the first licence granted after the commencement of this Act—must be accompanied by a letter from Aser Nominees Pty Ltd as trustee for the Aser Property Trust stating that it is prepared to treat with the applicant for the transfer of a lease of the casino to the applicant.

(3) If a change of circumstances occurs after an application is made but before it is determined, the applicant must immediately give the Authority full details of the change.

Maximum penalty: \$10 000.

(4) An applicant may withdraw an application at any time.

(5) In the case of the application for the licence that is to be the first licence granted after the commencement of this Act, the application lapses if Aser Nominees Pty Ltd notifies the Authority that it is no longer prepared to treat with the applicant for the transfer of a lease of the casino to the applicant.

DIVISION 3—THE AUTHORITY'S RECOMMENDATION

Suitability of applicant for grant, renewal or transfer of the casino licence

21. (1) The Authority must not recommend the grant or renewal of the casino licence unless satisfied that the applicant is a suitable person to operate the casino.

(2) If the Authority is satisfied that two or more applicants would be suitable persons to operate the casino, the Authority may recommend to the Governor that a choice be made between those applicants (but a recommendation need not be delayed until the Authority has assessed all applications).

(3) The Authority must not recommend the transfer of the casino licence unless satisfied that the applicant that is the proposed transferee is a suitable person to operate the casino.

(4) In assessing the suitability of an applicant, the Authority may have regard to—

- (a) the applicant's corporate structure; and
- (b) the extent of the applicant's financial resources and whether they are suitable and adequate to ensure the financial stability of the casino; and
- (c) the applicant's financial background; and
- (d) the extent of the applicant's business acumen and experience and, in particular, whether the applicant's business experience would suggest that it could operate the casino successfully; and
- (e) the applicant's reputation; and
- (f) the character, reputation, and financial background of the applicant's close associates; and
- (g) any representations made by the Minister; and
- (h) any other matters the Authority thinks fit.

(5) In considering an application for a casino licence (other than an application for the first grant of a licence after the commencement of this Act), the Authority may have regard to—

- (a) the nature and standard of the casino and the facilities to be provided in, or in conjunction with, the casino; and
- (b) the likely impact of the casino on tourism, employment and economic development in the region in which the casino is (or is to be) located.

DIVISION 4—INVESTIGATIONS BY THE AUTHORITY

Investigation of application

22. (1) The Authority must carry out the investigations and make the inquiries it considers necessary to enable it to make an appropriate recommendation on an application under this Part.

(2) For the purposes of the investigation, the Authority must obtain from the Commissioner of Police a report on anyone whose suitability to be concerned in or associated with the management and operation of the casino is to be assessed by the Authority.

Investigative powers

23. (1) The Authority may, by notice in writing—

- (a) require any person to provide to the best of the person's knowledge and belief, information, verified by statutory declaration, on matters relevant to the investigation that are specified in the notice; or

- (b) require any person to appear before the Authority for examination on matters relevant to the investigation; or
- (c) require any person to produce to the Authority, within a period stated in the notice, documents or other material relevant to the investigation.

(2) The Authority may also require any person whose suitability to be concerned in or associated with the management and operation of the casino is under investigation to submit to the taking of photographs, finger prints and palm prints.

(3) A person is guilty of an offence if the person—

- (a) fails to comply with a requirement made by the Authority under this section; or
- (b) having appeared for examination before the Authority, refuses or fails to take an oath, or to answer a question to the best of the person's knowledge and belief, when required to do so by the Authority.

Maximum penalty: \$10 000.

(4) The powers conferred by this section are in addition to those conferred in the *Gaming Supervisory Authority Act 1995*.

Governor and applicants to be notified of result of investigation

24. The Authority must notify the Governor and the applicant of the results of its investigation.

DIVISION 5—COSTS OF INVESTIGATION

Costs of investigation

25. (1) The applicant for the grant or transfer of the licence must pay to the Minister the costs of an investigation for the purposes of this Part.

(2) The Authority may require the applicant to make specified payments towards the costs of the investigation before the investigation begins and during the course of the investigation.

(3) If a payment is not made as required by the Authority, the Authority may discontinue the investigation.

(4) At the end of the investigation, the Authority must certify the cost of the investigation and any unpaid balance of that cost may be recovered from the applicant as a debt due to the State.

(5) In proceedings for recovery of the cost (or the balance of the cost) of an investigation, the Authority's certificate is to be regarded as conclusive evidence of that cost.

DIVISION 6—GOVERNOR NOT BOUND BY AUTHORITY'S RECOMMENDATION

Governor not bound

26. The Governor is not bound to act in accordance with the Authority's recommendation.

**PART 4
OPERATION OF CASINO**

DIVISION 1—OPENING HOURS

Opening hours

27. (1) The hours of opening for business are to be as fixed by or under the conditions of the licence.

(2) However, it is a condition of the licence that the casino is not to be open for business on Good Friday or Christmas Day.

DIVISION 2—APPROVAL OF MANAGEMENT AND STAFF

Classification of offices and positions

28. (1) A **sensitive position** is any of following offices or positions—

- (a) the position occupied by—
 - (i) a director, secretary, officer or other person who exercises or is in a position to exercise control or substantial influence over the licensee in the conduct of its affairs; or
 - (ii) an employee of the licensee; or
 - (iii) a person employed or engaged (either by the licensee or someone else) to work at the casino;(except a position classified as non-sensitive by the Authority); or
- (b) any other position associated with the operation of the casino that is designated by the Authority as a sensitive position.

(2) A **position of responsibility** is a sensitive position classified by the Authority as a position of responsibility.

(3) Positions of responsibility are divided into classes as determined by the Authority.

(4) **Staff member** is a general description applicable to both sensitive positions and positions classified by the Authority as non-sensitive.

Obligations of the licensee

29. (1) The licensee must not permit a person to occupy or work in a sensitive position unless the person is approved under this Division as a suitable person to work in sensitive positions.

Maximum penalty: \$20 000.

(2) The licensee must not permit a person to occupy or work in a position of responsibility unless the person is approved under this Division as a suitable person to work in a position of responsibility of the relevant class.

Maximum penalty: \$20 000.

(3) If a person ceases to occupy a sensitive position or a position of responsibility, the licensee must within 14 days give the Authority written notice—

- (a) identifying the person and the position; and
- (b) stating the date when the person ceased to occupy the position; and
- (c) stating why the person ceased to occupy the position.

Maximum penalty: \$5 000.

(4) The Authority may exempt the licensee from compliance with this section to an extent specified in the instrument of exemption.

(5) This section does not apply—

- (a) in respect of a person who occupied the relevant position at the commencement of this Act; or
- (b) in circumstances covered by an exemption.

Applications for approval

30. (1) The licensee may apply to the Commissioner for approval of a person as a suitable person to work in—

- (a) sensitive positions; or
- (b) positions of responsibility of a particular class or particular classes.

(2) The application must be accompanied by the information and materials required under the regulations and by the Commissioner.

(3) The Commissioner may require the person for whom the approval is sought to submit to the taking of photographs, finger prints and palm prints.

(4) The Commissioner must give the Commissioner of Police a copy of all applications made under this section and must allow the Commissioner of Police a reasonable opportunity to make representations on the application.

(5) The Commissioner of Police must make available to the Commissioner information about criminal convictions and other information to which the Commissioner of Police has access relevant to whether the application should be granted.

Decision on application

31. (1) The Commissioner may grant or refuse an application for approval under this Division.

(2) The Commissioner must give written notice to the licensee and the person for whom approval was sought of the Commissioner's decision on the application.

Suspension of approval

32. (1) If the person to whom an approval relates is charged with an offence involving dishonesty or punishable by imprisonment, the Commissioner may, by written notice to the licensee and the approved person, suspend the approval.

(2) While the approval is under suspension, the person is not to be regarded as a person approved under this Division to work in a position of responsibility or a sensitive position (as the case requires).

(3) The Commissioner may revoke a suspension at any time.

Revocation of approval

33. (1) The Commissioner may, by written notice to the licensee and the approved person, revoke the approval.

(2) Before the Commissioner revokes an approval, the Commissioner must, by written notices, invite the licensee and the approved person to make representations to the Commissioner within a specified time and must consider any representations made in response to the invitations.

DIVISION 3—PROVISIONS OF GENERAL APPLICATION TO STAFF**Identity cards**

34. (1) A staff member, while on duty at the casino, must wear an identification card in a form and manner approved by the Commissioner.

Maximum penalty: \$2 500.

(2) On ceasing to be a staff member, the former staff member must surrender the identity card to the Commissioner.

Maximum penalty: \$2 500.

(3) The Commissioner may, by instrument in writing, exempt a person or class of persons from compliance with this section.

Staff not to gamble

35. A staff member must not operate any machine or participate in any game in the casino except to the extent necessary for the proper performance of the member's duties.

Maximum penalty: \$10 000.

Staff not to accept gratuities

36. (1) A staff member must not, in relation to his or her work, accept a gift or gratuity from any person.

Maximum penalty: \$20 000.

(2) However, a staff member does not commit an offence by accepting a gift or gratuity if—

(a) it is a staff gratuity paid by the licensee or another employer on a basis approved by the Commissioner; or

- (b) it is of a kind, or given in circumstances, approved by the Commissioner.

Staff to be exempt from Security and Investigation Agents Act 1995

37. A person is, in relation to the performance of functions and duties as a staff member, exempt from the *Security and Investigation Agents Act 1995*.

DIVISION 4—APPROVAL AND USE OF SYSTEMS AND EQUIPMENT

Approval of management systems etc

38. (1) It is a condition of the casino licence that—

- (a) systems and procedures for conducting approved games; and
- (b) systems and procedures for surveillance and security; and
- (c) systems and procedures for internal management and control; and
- (d) systems and procedures for handling, dealing with and accounting for money and gambling chips; and
- (e) other systems and procedures that the Commissioner determines to be subject to this section,

must be approved by the Commissioner.

(2) It is a condition of the casino licence that the licensee must ensure that the licensee's operations under the casino licence conform with the approved systems and procedures.

Operations involving movement of money etc

39. (1) It is a condition of the casino licence that the licensee must comply with directions given by the Commissioner or an authorised officer about the movement or counting of money or gambling chips in the casino.

(2) It is a condition of the casino licence that the licensee must comply with instructions given by the Commissioner to facilitate the scrutiny by authorised officers of operations involving the movement or counting of money or gambling chips in the casino.

Approval of installation etc of equipment

40. (1) It is a condition of the casino licence that the licensee must not permit the installation or use of—

- (a) equipment for gambling; or
- (b) equipment for surveillance or security; or
- (c) equipment of any other kind or for any other purpose notified by the Authority to the licensee,

unless it has been approved by the Commissioner.

(2) It is a condition of the casino licence that the licensee must comply with any instructions of the Commissioner about the use of any such equipment.

(3) It is a condition of the casino licence that the Commissioner may, personally or through the agency of an authorised officer, assume control of any such equipment at any time.

(4) It is a condition of the casino licence that the licensee must not permit the removal of any such equipment except with the approval of the Commissioner.

Interference with approved system or equipment

41. (1) A person must not interfere with an approved system or equipment with the intention of gaining a benefit for himself, herself or another.

Maximum penalty: \$10 000.

(2) A person who, in the casino, has possession of a device designed, adapted or intended to be used for the purpose of interfering with the proper operation of an approved system or equipment is guilty of an offence.

Maximum penalty: \$10 000.

(3) A person who, in the casino, uses a computer, calculator or other device that assists in projecting the outcome of an authorised game is guilty of an offence.

Maximum penalty: \$10 000.

(4) A person other than a staff member authorised by the licensee to do so must not remove cash or gambling chips from gaming equipment.

Maximum penalty: \$10 000.

DIVISION 5—GAMBLING ON CREDIT

Gambling on credit prohibited

42. (1) It is a condition of the casino licence that the licensee must not, in connection with gambling at the casino—

- (a) accept a wager unless the gambler places the wager by putting down cash or gambling chips at the time the wager is made; or
- (b) lend money, gambling chips or anything that might be converted into money or gambling chips; or
- (c) extend any other form of credit; or
- (d) release or discharge a gambling debt without the Authority's approval.

(2) However, the above condition does not prevent the licensee or another person from extending credit for gambling on terms and conditions approved by the Authority.

DIVISION 6—EXCLUSION OF CHILDREN

Exclusion of children

43. (1) A child who enters the casino is guilty of an offence.

Maximum penalty: \$500.

(2) Any amount won by a child by gambling at the casino is forfeited to the Crown.

(3) If a child enters the casino, the licensee and the staff member who is responsible for supervising entry to the casino are each guilty of an offence.

Maximum penalty: In the case of the licensee—\$10 000.
In the case of a staff member—\$2 000.

(4) It is a defence to a charge of an offence against subsection (3) to prove that procedures for exclusion of children approved by the Authority were being properly enforced at the time the child entered the casino.

(5) An authorised person who suspects on reasonable grounds that a person who is in the casino or about to enter the casino may be a child may require the person to produce evidence of age to the authorised person's satisfaction.

(6) A person who—

(a) fails without reasonable excuse to comply with a requirement under subsection (5); or

(b) makes a false statement, or produces false evidence, in response to such a requirement,

is guilty of an offence.

Maximum penalty: \$2 000.

(7) An authorised person who suspects on reasonable grounds that a person who is in the casino is a child—

(a) may require the person to leave the casino; and

(b) if the person fails to comply with that requirement—exercise reasonable force to remove the person from the casino.

(8) In this section, an **authorised person** is—

(a) an agent or employee of the licensee; or

(b) a police officer.

DIVISION 7—GENERAL POWER OF EXCLUSION

Licensee's power to bar

44. (1) The licensee may, by written order, bar a person (the **excluded person**) from the casino for a period specified in the order.

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- (2) The order must—
- (a) state the grounds on which the order is made; and
 - (b) set out the rights of the excluded person to have the order reviewed under this section; and
 - (c) must be given to the person against whom it is made personally or by sending it by post addressed to the person at the last known postal address.
- (3) An order may be made under this section on any reasonable ground.

Examples

An order might be made on any one or more of the following grounds:

- The excluded person is placing his or her own welfare, or the welfare of dependants, at risk through gambling.
- The excluded person has damaged or misused equipment in the casino used for gambling.
- The excluded person has committed, is committing or is about to commit an offence.

(4) The order may be made for a period of up to 3 months unless the order is made by agreement with the excluded person, in which case it may be made, in accordance with the agreement, for any stated period or for an unlimited period.

(5) If the excluded person applies to the Commissioner within 14 days of the order for a review of the order the Commissioner must review the order and may confirm, vary or revoke the order.

(6) An excluded person who enters or remains in the casino while an order remains in force under this section is guilty of an offence.

Maximum penalty: \$2 500.

(7) If an excluded person is allowed to enter or remain in the casino while an order remains in force under this section, the licensee is guilty of an offence.

Maximum penalty: \$10 000.

- (8) An agent or employee of the licensee or a police officer may exercise reasonable force—
- (a) to prevent a person from entering the casino contrary to an order under this section; or
 - (b) to remove a person who is in the casino contrary to an order under this section.
- (9) The licensee or the Commissioner may at any time revoke an order under this section.
- (10) The licensee must retain copies of all orders made under this section.

Commissioner's power to bar

45. (1) The Commissioner may, by written order, bar a person (the **excluded person**) from the casino for a period specified in the order or for an unlimited period.

(2) The Commissioner may make an order under this section—

- (a) on the application of the person against whom the order is to be made; or
- (b) on the application of a dependant or other person who appears to have a legitimate interest in the welfare of the person against whom the order is to be made; or
- (c) on review of an order made by the licensee barring the person against whom the order is to be made from the casino; or
- (d) on the Commissioner's own initiative.

(3) The order must—

- (a) state the grounds on which the order is made; and
- (b) set out the rights of the excluded person to have the order reviewed; and
- (c) must be given to the person against whom it is made personally or by sending it by post addressed to the person at the last known postal address.

(4) An order may be made under this section on any reasonable ground and, in particular, on the ground that the excluded person is placing his or her own welfare, or the welfare of dependants, at risk through gambling.

(5) An excluded person who enters or remains in the casino while an order remains in force under this section is guilty of an offence.

Maximum penalty: \$2 500.

(6) If an excluded person is allowed to enter or remain in the casino while an order remains in force under this section, the licensee is guilty of an offence.

Maximum penalty: \$10 000.

(7) An agent or employee of the licensee or a police officer may exercise reasonable force—

- (a) to prevent a person from entering the casino contrary to an order under this section; or
- (b) to remove a person who is in the casino contrary to an order under this section.

(8) The Commissioner may at any time revoke an order under this section.

(9) The Commissioner must retain copies of all orders made under this section.

Summary exclusion in case of intoxication etc

46. An agent or employee of the licensee or a police officer may exercise reasonable force to prevent a person entering the casino, or to remove a person from the casino, if the person—

- (a) is behaving in an abusive, offensive or disorderly manner; or
- (b) appears to be intoxicated.

DIVISION 8—GENERAL POWER OF DIRECTION**Directions to licensee**

47. (1) The Authority may, by written notice, give directions to the licensee about the management, supervision and control of any aspect of the operation of the casino.

(2) The licensee must ensure that all directions given under this section are diligently observed and carried out.

**PART 5
FINANCIAL MATTERS**

DIVISION 1—ACCOUNTS AND AUDIT

Accounts and audit

48. (1) The licensee must keep proper financial accounts in relation to the operation of the casino.

Maximum penalty: \$50 000.

(2) The accounts—

(a) must be kept in a form approved by the Authority; and

(b) must be segregated from accounts relevant to other business carried on by the licensee.

(3) The licensee must have the accounts periodically audited as required under the conditions of the licence by a registered company auditor.

Licensee to supply authority with copy of audited accounts

49. (1) As soon as practicable after the audit of accounts that the licensee is required to keep under this Division is completed, the licensee must give the Authority a copy of the audited accounts.

Maximum penalty: \$10 000.

(2) As soon as practicable after the audit of accounts that the licensee is required to keep under the *Corporations Law* is completed the licensee must give the Authority a copy of the audited accounts.

Maximum penalty: \$10 000.

Duty of auditor

50. (1) The auditor of accounts that the licensee is required to keep either under this Division or the *Corporations Law* must—

(a) notify the Authority of any suspected irregularity in the accounts or in the licensee's financial affairs; and

(b) must, on the written request of the Authority, provide the Authority with information specified in the request (in a manner and form specified in the request) about the accounts or the licensee's financial affairs.

Maximum penalty: \$10 000.

(2) A communication under subsection (1) is absolutely privileged.

(3) The Authority must, subject to the following exceptions, keep information obtained under this section confidential.

Exceptions—

1. The Authority may divulge information obtained under this section to the Minister or the Commissioner.
2. The Authority may divulge information obtained under this section as otherwise authorised by law.

DIVISION 2—CASINO DUTY

Liability to casino duty

51. (1) The licensee must pay casino duty (and interest and penalties for late payment or non-payment of casino duty) in accordance with the casino duty agreement.

(2) In the absence of an agreement between the licensee and the Treasurer, the licensee must pay casino duty (and interest and penalties for late payment or non-payment of casino duty) on a basis fixed under the regulations.

(3) The Treasurer must pay duty (and interest and penalties) received from the licensee into the Consolidated Account.

(4) Casino duty (and interest and penalties) may be recovered as a debt due to the State.

Evasion of casino duty

52. (1) The licensee must not—

- (a) attempt to evade the payment of casino duty; or
- (b) make a false or misleading statement or return relevant to amount of casino duty payable knowing it to be false or misleading.

Maximum penalty: \$100 000.

(2) If the licensee contravenes subsection (1), the Treasurer may, within 4 years after the liability for duty arose, make an estimate of the duty that should have been paid and make a reassessment of duty on the basis of the estimate.

(3) Duty may be recovered on the basis of the reassessment as a debt.

**PART 6
SUPERVISION**

DIVISION 1—COMMISSIONER'S SUPERVISORY RESPONSIBILITY

Responsibility of the Commissioner

53. The Commissioner is responsible to the Authority to ensure that the operations of the casino are subject to constant scrutiny.

DIVISION 2—POWER TO OBTAIN INFORMATION

Power to obtain information

54. It is a condition of the casino licence that the licensee must, on the written request of the Commissioner or the Authority, provide information within the time specified in the request about—

- (a) any matter relevant to the operation of the casino specified in the request; or
- (b) any aspect of the licensee's financial affairs specified in the request.

DIVISION 3—POWERS OF AUTHORISED OFFICERS

Powers of inspection

55. (1) An authorised officer may at any time enter and remain in the casino to ascertain whether—

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

(2) A staff member must, at the request of an authorised officer, facilitate an examination by the officer of—

- (a) systems, procedures or equipment used for gambling, surveillance or security; or
- (b) accounts or records relating to the operation of the casino.

Maximum penalty: \$25 000.

(3) A person must not obstruct an authorised officer in the exercise of powers under this section.

Maximum penalty: \$25 000.

(4) If an authorised officer becomes aware of an irregularity, deficiency or statutory default in the supervision or management of the casino or in the accounts or records relating to the casino, the officer must make a written report on the irregularity, deficiency or default to the Commissioner and to the Authority.

PART 7
POWER TO DEAL WITH DEFAULT

DIVISION 1—STATUTORY DEFAULT

Statutory default

56. A **statutory default** occurs if—

- (a) the licensee contravenes or fails to comply with a provision of this Act or a condition of the licence; or
- (b) the licensee becomes liable to disciplinary action under this Act on some other basis.

Effect of criminal proceedings

57. (1) The Authority may exercise its powers under this Part in relation to a statutory default whether or not criminal proceedings have been, or are to be, taken for the default and even though a penalty may have been already imposed for the default.

(2) However—

- (a) if the licensee expiates a statutory default under this Part, no further action may be taken for that default; and
- (b) the Authority must, in imposing a fine, take into account any fine that has already been imposed in criminal proceedings.

DIVISION 2—COMPLIANCE NOTICES

Compliance notice

58. (1) If a statutory default occurs, the Authority may give written notice to the licensee (a **compliance notice**) specifying the default and requiring the licensee to take specified action, within a period specified in the notice, to remedy the default or to ensure against repetition of the default.

(2) If the licensee fails to take the specified action within the time allowed in the notice, the licensee is guilty of an offence.

Maximum penalty: \$100 000.

DIVISION 3—EXPIATION NOTICES

Expiation notice

59. (1) If a statutory default occurs, the Authority may give written notice to the licensee (an **expiation notice**) specifying the default and informing the licensee that disciplinary action may be avoided by payment of a specified sum not exceeding \$10 000 within a period specified in the notice.

(2) If the specified amount is paid in accordance with the notice, no disciplinary action may be taken under this Act for the default nor may criminal proceedings be taken for the default.

DIVISION 4—INJUNCTIVE REMEDIES

Injunctive remedies

60. (1) If a statutory default occurs or there are reasonable grounds to suspect that a statutory default may occur or be attempted, the Supreme Court may, on application by the Minister or the Authority, grant an injunction to prevent the statutory default or to prevent recurrence of the statutory default.

(2) The injunction may be granted on terms the Court considers appropriate.

(3) An injunction may be granted under this section whether or not—

- (a) there has been some previous statutory default of the same or a similar nature; or
- (b) there is imminent danger of substantial damage to any person.

(4) No undertaking as to damages can be required of the Minister or the Authority in proceedings under this section.

DIVISION 5—DISCIPLINARY ACTION

Disciplinary action

61. (1) If a statutory default occurs, the Authority may give written notice to the licensee—

- (a) specifying the default; and
- (b) requiring the licensee to show cause, within a period specified in the notice (which must be at least 14 days), why disciplinary action should not be taken against the licensee.

(2) The Authority must allow the licensee a reasonable opportunity to make submissions orally or in writing to the Authority.

(3) After considering the submissions (if any) made by the licensee, the Authority may, by order, take disciplinary action as follows—

- (a) the Authority may censure the licensee;
- (b) the Authority may impose a fine of up to \$100 000 on the licensee;
- (c) the Authority may vary the conditions of the licence (irrespective of any provision of the approved licensing agreement excluding or limiting the power of variation of the conditions of the licence);
- (d) the Authority may suspend the licence for a specified or unlimited period;
- (e) the Authority may cancel the licence.

(4) Disciplinary action takes effect on the date of service of the order on the licensee or on a later date specified in the order.

(5) If the Authority suspends the licence, the Authority may, at any time, terminate the suspension.

(6) A fine imposed under this section may be recovered as a debt due to the State.

Alternative remedy

62. The Authority may, instead of taking disciplinary action, issue a compliance notice.

DIVISION 6—OFFICIAL MANAGEMENT

Power to appoint manager

63. (1) If the casino licence—

- (a) is suspended, cancelled or surrendered; or
- (b) expires and is not renewed,

the Minister may, on the recommendation of the Authority, appoint an official manager of the business conducted under the licence.

(2) The appointment may be terminated at any time by the Minister.

(3) The appointment expires 90 days after it is made unless it is extended by regulation.

Powers of manager

64. (1) The official manager—

- (a) is to assume control of the business conducted under the former licence; and
- (b) is entitled to possession and control of property of the former licensee used for the purposes of the business conducted under the former licence; and
- (c) is, while the appointment continues in force, taken to be the holder of a licence on conditions determined by the Authority.

(2) Any proceeds of the business while under official management are to be applied as follows—

- (a) first, a reasonable rental for the former licensee's property is to be paid out of the proceeds to the former licensee while the property remains in the official manager's possession; and
- (b) secondly, the proceeds are to be applied towards the costs of official management (including the official manager's remuneration); and
- (c) thirdly, any remaining balance is to be paid into the Consolidated Account.

(3) However, the approved licensing agreement may operate to exclude or modify the provisions of subsection (2).

(4) The regulations may confer powers and impose duties on official managers and regulate official management in other ways.

**PART 8
REVIEW AND APPEAL**

Review of Commissioner's decision

65. (1) A person aggrieved by a decision of the Commissioner under this Act may, within 30 days after receiving notice of the decision, apply to the Authority for a review of the decision.

(2) A **decision** includes (for example) the refusal of an application or the revocation of an approval.

(3) On an application under this section, the Authority may confirm, vary, revoke or reverse the decision under review.

Finality of Authority's decisions

66. (1) A decision of the Authority under this Act is final and without appeal subject however to the following qualifications:

- (a) an appeal lies to the Supreme Court against a decision to take disciplinary action against a licensee; and
- (b) an appeal lies, by leave of the Supreme Court, against a decision of the Authority on a question of law.

(2) An appeal must be commenced, or the application for leave to appeal made, within 1 month after the decision to which the appeal relates.

Finality of Governor's decisions

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

**PART 9
MISCELLANEOUS**

Reasons for decision

68. (1) The Governor is not bound to give reasons for a decision under this Act.

(2) The Authority is not bound to give reasons for a decision under this Act.

Exception—

The Authority must, at the request of a person affected by a decision, give reasons for a decision if an appeal lies against the decision as of right, or by leave, to the Supreme Court.

(3) The Commissioner is not bound to give reasons for a decision under this Act.

Exceptions—

1. The Commissioner must, at the request of a person whom the Commissioner has barred from the casino, give reasons for doing so.
2. The Commissioner must, at the request of the Authority, give reasons to the Authority for a decision of the Commissioner under this Act.

Confidentiality of information provided by Commissioner of Police

69. No information provided by the Commissioner of Police to the Authority or the Commissioner may be disclosed to any person (except the Minister or a person to whom the Commissioner of Police authorises its disclosure) if the Commissioner of Police asks for the information to be kept confidential on the ground that its disclosure might—

- (a) prejudice present or future police investigations or legal proceedings; or
- (b) create a risk of loss, harm or undue distress.

Prohibition of gambling by the Commissioner and authorised officers

70. (1) The Commissioner must not engage in gambling at the casino.

Maximum penalty: \$10 000.

(2) An authorised officer must not engage in gambling at the casino.

Maximum penalty: \$10 000.

Annual report

71. (1) The Commissioner must, on or before 30 September in each year, prepare and present to the Authority a report on the administration of this Act during the preceding financial year.

(2) The Authority must, on or before 31 October in each year, prepare and present to the Minister a report on its activities in relation to the casino during the preceding financial year.

(3) The report must include—

- (a) details of any statutory default occurring during the course of the relevant financial year; and
- (b) details of any disciplinary action taken by the Authority; and
- (c) the Commissioner's report on the administration of this Act together with any observations on that report that the Authority considers appropriate.

(4) The Minister must, within 12 sitting days after receiving the Authority's report, have copies of the report laid before both Houses of Parliament.

Regulations

72. (1) The Governor may make regulations for the purposes of this Act.

(2) A regulation may impose a penalty not exceeding \$2 000 for contravention of, or failure to comply with, a provision of a regulation.

SCHEDULE
Repeal and Transitional Provisions

Interpretation

1. In this Schedule—

"**date of transition**" means the day on which the licence first granted under this Act comes into force;

"**former licence**" means the licence in force under the former Act immediately before the commencement of this Act.

Repeal

2. The *Casino Act 1983* is repealed.

Transitional provision

3. (1) The former licence continues in force under the former Act until the date of transition.

(2) The former Act continues to apply, to the exclusion of this Act, to the former licence and the operation of the casino under that licence until the date of transition.

(3) On the date of transition, the former licence is cancelled.