

South Australia

**GAMING SUPERVISORY AUTHORITY ACT 1995**

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An Act to establish the Gaming Supervisory Authority and to provide for its powers and functions; and for other purposes.

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*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 October 2000**.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

**GAMING SUPERVISORY AUTHORITY ACT 1995**

being

Gaming Supervisory Authority Act 1995 No. 12 of 1995  
[Assented to 23 March 1995]<sup>1</sup>

as amended by

Gaming Supervisory Authority (Administrative Restructuring) Amendment Act 1997 No. 32 of 1997 [Assented to 19 June 1997]<sup>2</sup>

**Racing (Controlling Authorities) Amendment Act 2000 No. 59 of 2000 [Assented to 27 July 2000]<sup>3</sup>**

<sup>1</sup> Came into operation 1 July 1995: *Gaz.* 29 June 1995, p. 2972.

<sup>2</sup> Came into operation (except ss. 3 and 5) 24 July 1997: *Gaz.* 24 July 1997, p. 174; ss. 3 and 5 came into operation 11 September 1997: *Gaz.* 11 September 1997, p. 703.

<sup>3</sup> **Came into operation 1 October 2000: *Gaz.* 28 September 2000, p. 2221.**

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

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LEGISLATIVE HISTORY**

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

**Short title**

1. This Act may be cited as the *Gaming Supervisory Authority Act 1995*.

**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—

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

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

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

"**the Gaming Machines Act**" means the *Gaming Machines Act 1992*;

"**the Racing Act**" means the *Racing Act 1976*.

**Establishment of Authority**

4. The *Gaming Supervisory Authority* is established.

**Constitution of Authority**

5. (1) The Authority is constituted of the following members, appointed by the Governor on the nomination of the Minister:

- (a) a legal practitioner of at least 10 years' standing or a person who has held judicial office as a member of a superior court of this State or of any other State or Territory of the Commonwealth or of the Commonwealth; and
- (b) four other persons who together have, in the Minister's opinion, the abilities and experience required for the effective performance of the Authority's functions.

(2) At least one member must be a woman and one a man.

(3) A person who has a direct or indirect pecuniary or personal interest in the undertaking under the casino licence or a licence under the *Gaming Machines Act* is not eligible for appointment to the Authority.

(4) The person appointed under subsection (1)(a) will be the presiding member of the Authority.

(5) The Governor may appoint a suitable person to be the deputy of a member of the Authority and the deputy may act as a member of the Authority in that member's absence.

(6) A person appointed as the deputy of the presiding member—

- (a) must have the same qualifications for appointment as the presiding member; and
- (b) may (but need not) be a person who is, apart from the appointment as the presiding member's deputy, a member of the Authority.

(7) On the office of a member becoming vacant, a person must be appointed under this section to the vacant office.

**Conditions of membership**

6. (1) A member will be appointed for a term, not exceeding three years, specified in the instrument of appointment and is, at the expiration of a term of office, eligible for reappointment.

(2) The Governor may remove a member of the Authority from office on the ground of—

- (a) mental or physical incapacity to carry out official duties satisfactorily; or
- (b) neglect of duty; or
- (c) dishonourable conduct; or
- (d) any other ground that the Executive Council considers sufficient.

(3) The office of a member of the Authority becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by notice in writing addressed to the Minister; or
- (d) is removed from office under subsection (2).

**Allowances and expenses**

7. A member of the Authority is entitled to allowances and expenses determined by the Governor.

**Validity of acts of Authority and immunity of members**

8. (1) An act or proceeding of the Authority is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

(2) No liability attaches to the Authority or a member of the Authority for an honest act or omission of the Authority or the member in the performance or exercise, or purported performance or exercise, of functions or powers under this Act or any other Act.

(3) A liability that would, but for this section, attach to the Authority or a member attaches instead to the Crown.

**Conflict of interests**

9. (1) A member of the Authority who has a direct or indirect pecuniary or personal interest in a matter under consideration by the Authority—

- (a) must disclose the nature of the interest to the Authority; and
- (b) must not take part in any deliberations or decisions of the Authority on the matter.

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

(2) It is a defence to a charge of an offence against subsection (1) for the defendant to prove that he or she was not, at the time of the alleged offence, aware of his or her interest in the matter.

- (3) A disclosure under this section must be recorded in the minutes of the Authority.

**Secretary**

- 10.** (1) There will be a Secretary to the Authority.

(2) The Secretary will be appointed under the *Government Management and Employment Act 1985*.

(3) The position of Secretary may be held in conjunction with any other position in the Public Service.

**Functions and powers of Authority**

- 11.** (1) The functions of the Authority are—

(a) in relation to the *Casino Act*—

- (i) to determine the terms and conditions of the licence under which the casino operates; and
- (ii) to ensure that an effective and efficient system of supervision is established and maintained over the operation of the licensed casino; and
- (iii) to advise, and make recommendations to, the Minister on matters relating to the operation of the licensed casino or on any aspect of the operation, administration or enforcement of the *Casino Act*;

(b) in relation to the *Gaming Machines Act*—

- (i) to ensure that an effective and efficient system of supervision is established and maintained over the operations of all licensees (of all classes) under that Act; and
- (ii) to advise, and make recommendations to, the Minister on matters relating to the operations of those licensees or on any aspect of the operation, administration or enforcement of that Act;

(ba) in relation to the *Racing Act*—

- (i) to carry out the licensing and other functions assigned to it under that Act;
- (ii) to ensure that an effective and efficient system of supervision is established and maintained over betting operations of a kind authorised under that Act (other than the operations of TAB); and
- (iii) to advise, and make recommendations to the Minister on matters relating to those betting operations or on any aspect of the operation, administration or enforcement of that Act;

(c) to exercise the other powers and functions conferred on, or assigned to, the Authority by or under this Act or any other Act, or by the Minister.

(2) The Authority has power to do anything that is necessary for, or incidental to, the exercise of its functions.

(3) The Authority may require the Commissioner to furnish the Authority with a report on any matter relating to—

- (a) the operation of the licensed casino; or
- (b) the operations of any licensee under the *Gaming Machines Act*; or
- (ba) betting operations of a kind authorised under the *Racing Act* (other than the operations of TAB); or
- (c) the discharge by the Commissioner of his or her responsibility to the Authority under the *Casino Act*, the *Gaming Machines Act* or the *Racing Act*.

(4) The Authority may give the Commissioner directions in relation to the discharge by the Commissioner of his or her responsibility to the Authority under the *Casino Act*, the *Gaming Machines Act* or the *Racing Act*, but is not empowered to direct or in any way influence the Commissioner in the exercise by the Commissioner of a discretion under either of those Acts.

### **Proceedings of Authority**

**12.** (1) The presiding member (or his or her deputy) and two other members of the Authority constitute a quorum of the Authority.

(2) In any proceedings before the Authority—

- (a) the presiding member (or his or her deputy) will preside; and
- (b) any question of law or procedure will be determined by the presiding member (or deputy) and any other question by unanimous or majority decision of the members.

### **Inquiries by Authority**

**13.** (1) The Authority—

- (a) may hold an inquiry whenever it considers it necessary or desirable to do so for the purpose of carrying out its functions; and
- (b) must, if requested to do so by the Minister, hold an inquiry into any matter relating to—
  - (i) the operation, administration or enforcement of the *Casino Act*, the *Gaming Machines Act* or the *Racing Act*; or
  - (ii) the operation of the licensed casino; or
  - (iii) the operations of any licensee under the *Gaming Machines Act*; or
  - (iv) betting operations of a kind authorised under the *Racing Act* (other than the operations of TAB).

(2) On completing an inquiry under this section, the Authority must submit to the Minister a report of the inquiry and the findings of the Authority on the inquiry, and any such report may include recommendations for action to be taken.

(3) Unless the Authority recommends that the report should remain confidential, the Minister must, within six sitting days of receiving a report under subsection (2), cause a copy of the report to be laid before each House of Parliament.

**Powers and procedures of Authority on an inquiry or appeal**

**14.** (1) For the purposes of an inquiry or other proceedings before the Authority (whether under this Act or any other Act), the Authority may—

- (a) by summons signed on behalf of the Authority by the Secretary of the Authority, require the attendance before the Authority of any person; or
- (b) by summons signed on behalf of the Authority by the Secretary of the Authority, require the production of any equipment or other item, or any books, papers or documents; or
- (c) inspect any equipment or other item, or any books, papers or documents produced before it and retain them for such reasonable period as it 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 to make oath or affirmation that he or she will truly answer all questions put to him or her by the Authority relating to any matter being inquired into or that is before the Authority; or
- (e) require any person appearing before the Authority to answer any relevant questions put to him or her by any member of the Authority or by any person appearing before the Authority.

(2) If a person—

- (a) who has been served with a summons to appear before the Authority, fails without reasonable excuse (proof of which lies on the person) to attend in obedience to the summons; or
- (b) who has been served with a summons to produce equipment or any other items, or books, papers or documents, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons; or
- (c) misbehaves before the Authority, wilfully insults the Authority or any member of the Authority or interrupts the proceedings of the Authority; or
- (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Authority,

the person is guilty of an offence.

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

(3) A person is not excused from answering a question or from producing books, papers or documents under this section—

- (a) on the ground that the answer to the question or the contents of the books, papers or documents would tend to incriminate the person; or
- (b) on the ground of legal professional privilege,

but if the person objects to answering a question on the ground that the answer would tend to incriminate him or her, the answer will not be admissible against him or her in criminal proceedings (except in proceedings for perjury) or, if the person objects to answering a question on the ground of legal professional privilege, the answer will not be admissible in civil or criminal proceedings against the person who would, but for this subsection, have the benefit of the legal professional privilege.



(4) The Authority may, if requested to do so by a person who has been required to answer a question by the Authority or who has produced books, papers or documents to the Authority, by order prohibit the publication in any newspaper or by radio or television of the name of the person, any answer given by him or her in proceedings before the Authority or the contents of any book, paper or document produced by him or her to the Authority.

(5) A person who contravenes an order under subsection (4) is guilty of an offence.

Maximum penalty: \$10 000.

(6) The Authority may sit at any time and in any place (including a place outside this State) and may adjourn its sittings from time to time and from place to place.

(7) In the course of any proceedings, the Authority may—

- (a) receive in evidence any transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the transcript that it thinks proper; or
- (b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court or tribunal that may be relevant to the matter before the Authority.

#### **Representation before Authority**

**15.** (1) A person appearing before the Authority in any proceedings may appear—

- (a) personally;
- (b) by counsel;
- (c) if a body corporate—by an officer or employee of the body corporate who has obtained leave of the Authority to appear on behalf of the body corporate;
- (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 Authority—

- (a) by a member of the police force; or
- (b) by counsel.

#### **Participation in gambling**

**16.** A member or employee of the Authority must not engage in a gambling activity to which the Authority's statutory responsibilities extend.

Maximum penalty: \$10 000.

#### **Confidentiality**

**17.** (1) A member or employee (or a former member or employee) of the Authority must not disclose confidential information obtained in the course of carrying out official functions except—

- (a) as may be required for carrying out official functions; or
- (b) as required by law; or

- (c) as permitted by the person in whose favour the duty of confidentiality exists; or
- (d) to a reciprocating authority, or an officer or employee of a reciprocating authority.

Maximum penalty: \$10 000.

(2) An authority, officer or person responsible for the administration or enforcement of laws relating to the supervision or control of gambling in another jurisdiction is a **reciprocating authority** if—

- (a) the other jurisdiction is the Commonwealth, a State or Territory of the Commonwealth, or New Zealand; or
- (b) there is an arrangement in force between the South Australian government and the government of the relevant jurisdiction for the exchange of information relevant to the administration or enforcement of laws for the supervision or control of gambling.

(3) The *Freedom of Information Act 1991* does not apply in relation to the Authority.

**Ombudsman's jurisdiction**

**18.** The Ombudsman's jurisdiction does not extend to acts of the Authority.

**Gaming Supervisory Authority Act 1995**

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**APPENDIX**

**LEGISLATIVE HISTORY**

*(entries in bold type indicate amendments incorporated since the last reprint)*

<b>Section 3:</b>	definition of "Commissioner" substituted by 32, 1997, s. 3
Section 5(6):	<b>definition of "the Racing Act" inserted by 59, 2000, Sched. para. (a)</b>
Section 9(1):	substituted by 32, 1997, s. 4
<b>Section 11(1):</b>	amended by 32, 1997, s. 6(a)
<b>Section 11(3):</b>	<b>amended by 59, 2000, Sched. para. (b)</b>
<b>Section 11(4):</b>	<b>amended by 59, 2000, Sched. paras. (c), (d)</b>
<b>Section 13(1):</b>	<b>amended by 59, 2000, Sched. para. (e)</b>
Section 14(2):	<b>amended by 59, 2000, Sched. paras. (f), (g)</b>
Section 14(5):	amended by 32, 1997, s. 6(b)
Sections 16 - 18:	amended by 32, 1997, s. 6(c)
	inserted by 32, 1997, s. 5