

South Australia

~

INDEPENDENT GAMBLING AUTHORITY ACT 1995

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

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 October 2001**.*

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.

INDEPENDENT GAMBLING AUTHORITY ACT 1995

being

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

as amended by

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

Racing (Controlling Authorities) Amendment Act 2000 No. 59 of 2000 [Assented to 27 July 2000]³

Racing (Proprietary Business Licensing) Act 2000 No. 90 of 2000 [Assented to 21 December 2000]⁴

Statutes Amendment (Gambling Regulation) Act 2001 No. 18 of 2001 [Assented to 31 May 2001]⁵

¹ Came into operation 1 July 1995: *Gaz.* 29 June 1995, p. 2972.

² 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.

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

⁴ Came into operation 18 January 2001: *Gaz.* 18 January 2001, p. 68.

⁵ **Part 5 (ss. 30-41) came into operation 1 October 2001: *Gaz.* 13 September 2001, p. 4116.**

N.B. The amendments effected to this Act by the *Authorised Betting Operations Act 2000* had not been brought into operation at the date of, and have not been included in, this reprint.

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.

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Interpretation
4. Establishment of Authority
5. Constitution of Authority
6. Conditions of membership
7. Allowances and expenses
8. Validity of acts of Authority and immunity of members
9. Conflict of interests
10. Secretary
11. Functions and powers of Authority
- 11A. Committees
12. Proceedings of Authority
13. Inquiries by Authority
14. Powers and procedures of Authority on an inquiry or appeal
15. Representation before Authority
- 15A. Delegation
- 15B. Voluntary barring of excessive gamblers
16. Participation in gambling
17. Confidentiality
18. Ombudsman's jurisdiction
19. Annual report

**APPENDIX
LEGISLATIVE HISTORY**

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Independent Gambling Authority Act 1995*.

Commencement

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

Interpretation

3. In this Act—

"**Authority**" means the Independent Gambling Authority established under this Act;

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

"**prescribed Act**" means—

- (a) the *Casino Act 1997*; or
- (b) the *Gaming Machines Act 1992*; or
- (c) any other Act that assigns functions to the Authority;

"**proceedings**" means proceedings on an inquiry, review or appeal.

Establishment of Authority

4. (1) The *Independent Gambling Authority* is established.

(2) The Authority is an instrumentality of the Crown but is not subject to Ministerial control or direction except as provided by this or any other Act.

- (3) The Authority—

- (a) is a body corporate with perpetual succession and a common seal; and
- (b) is capable of suing and being sued in its corporate name; and
- (c) is capable of acquiring, holding or dealing with real or personal property in its corporate name; and
- (d) has the functions and powers assigned or conferred under this or any other Act.

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) 6 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 2 members must be women and 2 must be men.

(3) A person who, without the approval of the Minister, has a direct or indirect pecuniary or personal interest in a licensee, or a business conducted by a licensee, under a prescribed 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 *Public Sector Management Act 1995*.

(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—

- (aa) to develop and promote strategies for reducing the incidence of problem gambling and for preventing or minimising the harm caused by gambling; and
- (aab) to undertake, assist in or co-ordinate ongoing research into matters relevant to the Authority's functions, including research into—
 - (i) the social and economic costs and benefits to the community of gambling and the gambling industry; and
 - (ii) the likely impact, both negative and positive, on the community of any new gambling product or gambling activity that might be introduced by any section of the gambling industry; and
 - (iii) strategies for reducing the incidence of problem gambling and preventing or minimising the harm caused by gambling; and
 - (iv) any other matter directed by the Minister; and
- (a) to ensure that an effective and efficient system of supervision is established and maintained over the operations of licensees under prescribed Acts; and
- (b) to advise, and make recommendations to, the Minister on matters relating to the

operations of licensees under prescribed Acts or on any aspect of the operation, administration or enforcement of prescribed Acts; and

- (c) to perform other functions assigned to the Authority under this Act or a prescribed Act or by the Minister.

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

(2a) In performing its functions and exercising its powers under this Act or a prescribed Act, the Authority must have regard to the following *objects*:

- (a) the fostering of responsibility in gambling and, in particular, the minimising of harm caused by gambling, recognising the positive and negative impacts of gambling on communities; and
- (b) the maintenance of a sustainable and responsible gambling industry in this State.

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

- (a) the operations of a licensee under a prescribed Act; or
- (b) the operation, administration or enforcement of a prescribed 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 a prescribed Act, but is not empowered to direct or in any way influence the Commissioner in the exercise by the Commissioner of a discretion under a prescribed Act.

Committees

11A. (1) The Authority may establish such committees as the Authority thinks fit to assist it in the performance of its functions.

(2) The membership of a committee will be determined by the Authority and may, but need not, consist of or include members of the Authority.

(3) The procedures to be observed by a committee in relation to the conduct of its business will be—

- (a) as determined by the Authority;
- (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

Proceedings of Authority

12. (1) The presiding member (or his or her deputy) and 3 other members of the Authority constitute a quorum of the Authority.

(2) The presiding member, or in his or her absence the deputy of the presiding member, must preside at meetings of the Authority or proceedings before the Authority.

(3) A unanimous or majority decision of the members present at a meeting of the Authority or hearing proceedings before the Authority is a decision of the Authority.

(4) The Authority may—

- (a) hold meetings and conduct proceedings by telephone or other electronic means;
- (b) allow a person to participate in meetings or proceedings by telephone or other electronic means.

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 operations of a licensee under a prescribed Act; or
 - (ii) the operation, administration or enforcement of a prescribed Act.

(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 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

Independent Gambling Authority Act 1995

- (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 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 before the Authority—

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

Delegation

15A. (1) The Authority may, by instrument in writing, delegate to a committee established by the Authority, a member, deputy member or the Secretary of the Authority or the Commissioner any of the powers or functions of the Authority under this Act or a prescribed Act (other than the conduct of an inquiry or review or appeal).

(2) A delegation under this section—

- (a) may be unconditional or subject to conditions specified by the delegator; and
- (b) does not derogate from the power of the delegator to act personally in any matter; and
- (c) is revocable at will by the delegator.

Voluntary barring of excessive gamblers

15B. (1) The Authority may, by order, on the written request of a person, bar the person (the "excluded person") from—

- (a) the casino; or
- (b) the gaming area, or areas, of one or more specified premises that are the subject of a gaming machine licence.

(2) An order under this section remains in force until revoked.

(3) Subject to subsection (4), the Authority will, on the written request of the excluded person, vary or revoke the order.

(4) An order under this section may not be revoked, or be varied so as to limit in any way its application, unless it has been in force for a period of at least 12 months.

(5) The Authority must give written notice of an order under this section, and of any variation or revocation of the order, to the licensee of each place to which the order relates.

(6) An excluded person who enters or remains in a place from which he or she has been barred under this section is guilty of an offence.

Maximum penalty: \$2 500.

Independent Gambling Authority Act 1995

(7) The powers under the *Casino Act 1997* or the *Gaming Machines Act 1992* relating to requiring a person to leave, or removing a person from, a place from which the person has been barred under either of those Acts, extend to a person barred from such a place by an order under this section, as if the order were an order under the relevant Act.

(8) The barring of a person from a place pursuant to an order under this section will be regarded as confidential information for the purposes of this Act.

Participation in gambling

16. A member of the Authority or the Commissioner 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 former member of the Authority or of a committee established by the Authority, the Commissioner or a former Commissioner or any officer or employee engaged or formerly engaged in administration or enforcement of this Act or a prescribed Act must not disclose confidential information obtained in the course of carrying out official functions except—

- (a) to another person who has official functions under this Act or a prescribed Act, to the Commissioner of Police or as may otherwise be required for carrying out such 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.

Annual report

19. (1) The Authority must, on or before 31 October in each year, prepare and submit to the Minister a report on the performance of its functions under this Act during the preceding financial year.

(2) However, the Authority is not required to include in the report any material that is included in an annual report furnished by the Authority under some other Act.

(3) The Authority's report under this section must include—

- (a) particulars of research undertaken by the Authority, or in which the Authority has participated, during the year; and
- (b) a summary of any findings arising out of those research activities.

(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.

Independent Gambling Authority Act 1995

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

Section 1:	amended by 18, 2001, s. 30
Section 3:	amended by 32, 1997, s. 3; 59, 2000, Sched. para. (a); substituted by 90, 2000, Sched. 2 cl. 1(a) definition of "Authority" amended by 18, 2001, s. 31(a) definition of "Commissioner" amended by 18, 2001, s. 31(b) redesignated as s. 4(1) by 90, 2000, Sched. 2 cl. 1(b); amended by 18, 2001, s. 32(a)
Section 4(1): (previously section 4)	inserted by 90, 2000, Sched. 2 cl. 1(b)
Section 4(2):	inserted by 18, 2001, s. 32(b)
Section 4(3):	amended by 18, 2001, s. 33(a)
Section 5(1):	substituted by 18, 2001, s. 33(b)
Section 5(2):	substituted by 90, 2000, Sched. 2 cl. 1(c)
Section 5(3):	substituted by 32, 1997, s. 4
Section 5(6):	amended by 32, 1997, s. 6(a)
Section 9(1):	amended by 18, 2001, s. 34
Section 10(2):	amended by 59, 2000, Sched. paras. (b)-(e); substituted by 90, 2000, Sched. 2 cl. 1(d)
Section 11:	amended by 18, 2001, s. 35(a)
Section 11(1):	inserted by 18, 2001, s. 35(b)
Section 11(2a):	inserted by 18, 2001, s. 36
Section 11A:	amended by 18, 2001, s. 37
Section 12(1):	substituted by 90, 2000, Sched. 2 cl. 1(e)
Section 12(2):	inserted by 90, 2000, Sched. 2 cl. 1(e)
Section 12(3) and (4):	amended by 59, 2000, Sched. paras. (f), (g); substituted by 90, 2000, Sched. 2 cl. 1(f)
Section 13(1):	amended by 90, 2000, Sched. 2 cl. 1(g)
Section 14(1):	amended by 32, 1997, s. 6(b)
Section 14(2):	amended by 32, 1997, s. 6(c)
Section 14(5):	amended by 90, 2000, Sched. 2 cl. 1(h)
Section 15(1):	amended by 90, 2000, Sched. 2 cl. 1(i)
Section 15(2):	inserted by 90, 2000, Sched. 1(j)
Section 15A:	amended by 18, 2001, s. 38
Section 15A(1):	inserted by 18, 2001, s. 39
Section 15B:	inserted by 32, 1997, s. 5; amended by 90, 2000, Sched. 2 cl. 1(k)
Section 16:	inserted by 32, 1997, s. 5
Section 17:	substituted by 90, 2000, Sched. 2 cl. 1(l); amended by 18, 2001, s. 40
Section 17(1):	inserted by 32, 1997, s. 5
Section 18:	inserted by 18, 2001, s. 41
Section 19:	