

**NORTHERN TERRITORY OF AUSTRALIA**

**GAMING MACHINE ACT**

As in force at 17 May 2007

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 17 May 2007

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## GAMING MACHINE ACT

**An Act to provide for the regulation and control of gaming machines and for related purposes**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Gaming Machine Act*.

#### **2 Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **2A Objectives**

The objects of this Act are:

- (a) to promote probity and integrity in gaming;
- (b) to maintain the probity and integrity of persons engaged in gaming in the Territory;
- (c) to promote fairness, integrity and efficiency in the operations of persons engaged in gaming in the Territory;
- (d) to reduce any adverse social impact of gaming; and
- (e) to promote a balanced contribution by the gaming industry to general community benefit and amenity.

#### **3 Definitions**

In this Act, unless the contrary intention appears:

***approved evaluator*** means a person who is approved as an evaluator under section 131(10).

**approved finance provider** means:

- (a) a financial institution that is approved as a finance provider under section 129(1); or
- (b) a person or body prescribed as a finance provider for the purposes of this Act.

**arrangement** includes a scheme, understanding, promise or undertaking, whether express or implied.

**associate** has the meaning given by section 5.

**basic monitoring service** means a monitoring service that is prescribed.

**betting unit** means the least valuable bet a player may make on a gaming machine.

**centralised credit system** means an electronic or computer system or device that is so designed that it may be used for, or adapted to enable, the transfer of credits of gaming tokens to or from a gaming machine.

**Chairperson** means:

- (a) the Chairperson of the Commission appointed under section 6 of the *Northern Territory Licensing Commission Act*; or
- (b) a person appointed to act as the Chairperson of the Commission under section 8 of that Act while acting as the Chairperson.

**club** means a body corporate that holds a club liquor licence.

**club liquor licence** means a licence granted under the *Liquor Act* to a body corporate:

- (a) where the primary activity conducted on or at the premises specified in the licence is the sale and consumption of liquor on or at those premises by members and guests of the body corporate; and
- (b) that is endorsed with the words "**AUTHORITY – CLUB**".

**Commission** means the Northern Territory Licensing Commission established by section 4 of the *Northern Territory Licensing Commission Act*.



**Community Benefit Fund** means the Community Benefit Fund maintained under section 68A of the *Gaming Control Act*.

**computer cabinet** means the sealable metal cabinet in a gaming machine which contains the game program storage medium and the random access memory.

**conduct of gaming** has the meaning given by section 4.

**conviction** includes a finding of guilt, or the acceptance of a plea of guilty, by a court.

**Director** means:

- (a) the Director of Licensing appointed under section 22(1) of the *Northern Territory Licensing Commission Act*; or
- (b) a person appointed to act as the Director under section 22(2) of that Act while acting as the Director.

**electronic monitoring system** means an electronic or computer system or device that is designed so that it may be used, or adapted, to receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment.

**employ** means to employ for fee or reward, to engage in an honorary capacity or to engage without fee or reward.

**executive officer**, in relation to a body corporate, means the chairperson, managing director or other principal executive officer of the body corporate and every member of any executive, governing or management body of the body corporate (by whatever name called) and, in relation to an incorporated association, includes the public officer.

**financial institution** means:

- (a) the Reserve Bank of Australia;
- (b) an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth (an **ADI**);
- (c) a foreign ADI within the meaning of the *Banking Act 1959* of the Commonwealth;
- (d) a person who carries on State banking within the meaning of section 51(xiii) of the Commonwealth Constitution;

- (e) a body corporate that is or that, if it had been incorporated in Australia, would be a financial corporation within the meaning of section 51(xx) of the Commonwealth Constitution;
- (f) the Territory Insurance Office; or
- (g) a person or body prescribed as a financial institution for the purposes of this Act.

**game** means a game designed to be played on a gaming machine and identifiable from all other games by differences in rules or programming.

**gaming** means the playing of a gaming machine.

**gaming equipment** means a gaming machine, linked jackpot equipment, electronic monitoring system, centralised credit system or any part of or replacement part for such a machine, equipment or system.

**gaming machine** means a device that is designed so that:

- (a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and
- (b) it may be operated, wholly or in part:
  - (i) by the insertion of a gaming token into the device;
  - (ii) by the use of gaming machine credits;
  - (iii) by the electronic transfer of credits of gaming tokens to the device; or
  - (iv) by the use of gaming tokens held, stored or accredited by the device or elsewhere; and
- (c) because of making a bet on the device, winnings may become payable,

but does not include any device declared under section 171 not to be a gaming machine.

**gaming machine area** means a location on licensed premises where a licensee is permitted to install a gaming machine.

**gaming machine credit** means a credit of a gaming token registered by a gaming machine.

**gaming machine licence** means a gaming machine licence issued under section 28.

***gaming machine type*** means a type of gaming machine in which different games may be installed.

***gaming token*** means Australian currency or a token, credit or other thing that enables a bet to be made on a gaming machine, but does not include a gaming machine credit.

***gross monthly profit***, in respect of licensed premises, means the monetary amount of all bets made on gaming machines by persons who played those machines on the premises during the period covered by an assessment made under section 148 less the monetary amount of all payments made to those persons in respect of their playing of those machines during that period.

***hotel liquor licence*** means a licence granted under the *Liquor Act*:

- (a) where the primary activity conducted on or at the premises specified in the licence is the sale and consumption of liquor on or at those premises; and
- (b) that is endorsed with the words "**AUTHORITY – PUBLIC HOTEL**" or "**AUTHORITY – TAVERN**".

***inspector*** means an inspector appointed under section 20 and includes an authorised person appointed under section 21 and a gaming inspector appointed under the *Gaming Control Act*.

***jackpot*** means the combination of letters, numbers, symbols or representations required to be displayed on the reels or video screen of a gaming machine so that the maximum winnings in accordance with the prize payout scale displayed on the machine are payable.

***licensed machine manager*** means the holder of a machine manager's licence under Part 4.

***licensed premises*** means premises on which a licensee is licensed to conduct gaming.

***licensed monitoring provider*** means the holder of a monitoring provider's licence under Part 4.

***licensed repairer*** means the holder of a repairer's licence under Part 4.

***licensed service contractor*** means the holder of a service contractor's licence under Part 4.

***licensee*** means the holder of a gaming machine licence.

**linked jackpot arrangement** means an arrangement under which 2 or more gaming machines are linked to a device, being a device:

- (a) that records, an amount which, in the event of a jackpot or other result being obtained on one of those machines, may be, or part of the amount may be, payable as winnings;
- (b) that, for the purpose of recording the amount referred to in paragraph (a), receives data from each gaming machine to which the device is linked; and
- (c) that is not capable of affecting the outcome of a game on a gaming machine to which the device is linked.

**linked jackpot equipment** means a jackpot meter, payout display, linking equipment, computer equipment, programming or other device (other than a gaming machine) forming, or capable of forming, part of a linked jackpot arrangement.

**liquor** has the same meaning as in the *Liquor Act*.

**liquor licence** means:

- (a) a licence granted under the *Liquor Act*; or
- (b) an authority to sell liquor under a Commonwealth Act.

**listed person** means a person listed on;

- (a) the roll of recognised manufacturers and suppliers of gaming machines maintained under section 116; or
- (b) the roll of recognised suppliers of restricted components maintained under section 117.

**locality** has the meaning in section 6A.

**machine manager** means:

- (a) a licensed machine manager employed under section 60(3);  
or
- (b) an applicant for a machine manager's licence employed under section 60(4); or
- (c) a person employed under section 60(6).

**machine manager's licence** means a machine manager's licence under Part 4.

**money clearance** means the removal of gaming tokens from the drop box of a gaming machine.

**monitoring provider's licence** means a monitoring provider's licence under Part 4.

**multiple site linked jackpot arrangement** means a linked jackpot arrangement linking gaming machines with other gaming machines on 2 or more licensed premises.

**non-proprietary club** means a club whose rules, constitution or other incorporating documents provide that:

- (a) the income, profits and assets of the club are to be applied only in the promotion of its objects; and
- (b) the payment of dividends to, or the distribution of income, profits or assets of the club among, its members is prohibited.

**place** includes a house, wharf and premises.

**play a gaming machine** has the meaning given by section 6.

**premises** includes messuages, buildings, lands, easements, tenements of any tenure, vehicles or vessels.

**principal executive officer**, in relation to a body corporate, means the chairperson, managing director and/or other principal executive, governing or management officer (by whatever name called) of the body corporate and, in relation to an incorporated association, includes the public officer.

**public interest** means public interest having regard to the creation and maintenance of public confidence and trust in the credibility or integrity of:

- (a) gaming;
- (b) the conduct of gaming;
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

**recognised manufacturer or supplier of gaming machines** means a person who is approved as a recognised manufacturer or supplier of gaming machines under section 116.

**recognised supplier of restricted components** means a person who is approved as a recognised supplier of restricted components under section 117.

**restricted component** means a component that is prescribed as a restricted component when it does not form part of a gaming machine, linked jackpot equipment, electronic monitoring system or centralised credit system but does not include anything declared under section 171 not to be a restricted component.

**schedule of gaming machines** means the schedule of gaming machines issued under section 29 that, for the time being, is in existence in respect of the licensed premises specified in the schedule.

**seal** means a seal issued or approved by the Director under section 136A.

**service contract** means an agreement to install, alter, adjust, maintain or repair gaming equipment on a licensee's licensed premises.

**service contractor's licence** means a service contractor's licence under Part 4.

**single site linked jackpot arrangement** means a linked jackpot arrangement linking gaming machines with gaming machines on the same licensed premises.

**vehicle** means a motor vehicle, omnibus, coach, cart, sulky, bicycle, velocipede, train, railway carriage, aeroplane, airship, balloon, hovercraft or any other means of conveyance or transit.

**vessel** means a ship, boat, punt, ferry, hovercraft or any other kind of vessel used or apparently designed for use in navigation.

#### **4 Meaning of *conduct of gaming***

A reference in this Act to ***conduct of gaming*** is a reference to:

- (a) the management, use, supervision, operation and conduct of gaming equipment;
- (b) the sale, redemption or use of gaming tokens;
- (c) the carrying out of centralised credit transactions;
- (d) the installation, alteration, adjustment, maintenance or repair of gaming equipment;

- (e) the use or distribution of proceeds from the conduct of gaming; and
- (f) accounting, banking, storage and other acts in connection with or related or incidental to gaming and the conduct of gaming.

## **5 Meaning of *associate***

- (1) For the purposes of this Act, the following persons are associates of a person:
  - (a) a spouse or de facto partner of the person;
  - (b) a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
  - (c) a partner of the person;
  - (d) a body corporate of which the person is an executive officer;
  - (e) where the person is a body corporate, an executive officer of the body corporate;
  - (f) a person who, in the previous year, has provided to the first-mentioned person advice for fee or reward in relation to gaming, the conduct of gaming or the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
  - (g) an employee or employer of the person;
  - (h) an officer or employee of a body corporate of which the person is an officer or employee;
  - (j) an employee of a natural person of whom the person is an employee;
  - (k) a body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a body corporate, of the executive officers of that body corporate;
  - (m) a body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers of which, the person is accustomed or under an obligation, whether formal or informal, to act;

- (n) a body corporate in which the person holds a controlling interest;
  - (p) where the person is a body corporate, a person who holds a controlling interest in the body corporate;
  - (q) a person who is named in an affidavit forwarded or lodged by the person under section 44 or 74;
  - (r) a person who is, because of this subsection, an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of this subsection).
- (2) For the purposes of this Act, a person is taken to hold a controlling interest in a body corporate if the person, alone or together with any associate or associates of the person, is in a position to control not less than 15% of the voting power in the body corporate or holds interests in not less than 15% of the issued shares in the body corporate.

## **6 Meaning of *play a gaming machine***

For the purposes of this Act, a person is taken to play a gaming machine if the person, directly or indirectly:

- (a) inserts a gaming token into;
- (b) causes gaming machine credits to be registered by;
- (c) makes a bet on;
- (d) causes the activation of any process relating to the game of;  
or
- (e) makes or participates in the making of the decisions involved in playing,

the gaming machine.

## **6A Meaning of *locality***

- (1) A locality is a part of the Territory prescribed as a locality for the purposes of this Act.
- (2) A locality may include one or more other localities and localities may overlap.
- (3) Licensed premises may be situated in one or more localities.



**7 Act not to apply to casinos**

This Act does not apply to or in relation to the obtaining, possession or use of a gaming machine in a casino, within the meaning of the *Gaming Control Act*.

**8 Act binds Crown**

This Act binds the Crown not only in right of the Territory but, so far as the legislative power of the Legislative Assembly permits, in all its other capacities.

**Part 2 Administration****17 Powers and functions of Commission**

- (1) In addition to the functions conferred on it by or under this Act, the Commission has those functions conferred on it by the Minister.
- (2) The Commission has power to do all things necessary or convenient to be done for or in connection with or incidental to the performance of its functions.
- (3) The following principles are to be considered when the Commission is performing its functions:
  - (a) minimum regulatory intervention by government;
  - (b) maximum cooperation between industry and government;
  - (c) performance-based risk management controls;
  - (d) proactive and competitive industry positioning;
  - (e) long term viability of the gaming industry;
  - (f) a balanced approach to problem gambling.

**19 Decisions or determinations of Commission are final**

A decision or determination of the Commission under this Act is final and has effect from the making of the decision or determination or from such other time as is specified by the Commission.

**20 Inspectors**

- (1) The Director may appoint an employee within the meaning of the *Public Sector Employment and Management Act* to be an inspector for the purposes of this Act.

- (2) An inspector appointed under this section may exercise such powers and perform such functions as are given by or under this Act.
- (3) The Director shall issue to an inspector appointed under this section an identity card containing a photograph and the signature of the inspector verified by the signature of the Director.
- (4) An inspector appointed under this section whose appointment is terminated shall surrender to the Director the identity card issued to the person under subsection (3).

Penalty: \$5000.

- (5) An inspector appointed under this section shall, when exercising or performing any of his or her powers or functions, produce the identity card issued to the inspector under subsection (3) to a person who questions the right of the inspector to exercise the power or perform the function.
- (6) The production by an inspector of an identity card issued under subsection (3) shall, until the contrary is proved, be sufficient authority for the inspector to do any thing which the inspector is authorised to do by or under this Act.
- (7) An inspector appointed under this section may, while lawfully exercising a power or performing a function, be accompanied by a person (including a member of a professional body, a person authorised by the Director, a tradesman or a person expert or experienced in a particular field of endeavour) and may, if the inspector reasonably believes it is necessary in the circumstances, request a person to assist the inspector.
- (8) A person assisting an inspector under subsection (7) has and may exercise all the powers of an inspector appointed under this section as are reasonably necessary for the purpose and is to be taken to be an employee of the Territory.

## **21 Authorised persons**

- (1) The Director may, in writing, appoint a person who is not an employee within the meaning of the *Public Sector Employment and Management Act* to be an authorised person for the purposes of this Act.
- (2) An authorised person may exercise the powers and perform the functions of an inspector that are specified in the appointment.

- (3) In exercising a power or performing a function under this Act, an authorised person:
- (a) is subject to the direction and control of the Director; and
  - (b) is to be taken to be an employee of the Territory.
- (4) The Director must issue to an authorised person an identity card containing a photograph and the signature of the person verified by the signature of the Director.
- (5) An authorised person whose appointment is terminated must surrender to the Director the identity card issued to the person under subsection (4).
- Penalty: 50 penalty units.
- (6) An authorised person must, when exercising or performing any of his or her powers or functions, produce the identity card issued to the person under subsection (4) to a person who questions the right of the person to exercise the power or perform the function.
- (7) The production by an authorised person of an identity card issued under subsection (4) is, until the contrary is proved, to be taken to be sufficient authority for the person to do any thing which the person is authorised to do by or under this Act.

## **22 Secrecy**

- (1) Subject to this section, a person who is or has been engaged in the administration or enforcement of this Act must not, either directly or indirectly, except for the purposes of this Act:
- (a) make a record of, or communicate to a person, information concerning the affairs of another person acquired by the person under this Act by reason of that employment; or
  - (b) produce to a person or permit a person to have access to a document furnished to the person for the purposes of this Act.
- Penalty: \$10,000 or imprisonment for 2 years.
- (2) Nothing in this section prevents a person to whom it applies from disclosing information obtained under this Act, where:
- (a) the person from whom it was obtained consents to the disclosure;

- (b) the disclosure is to:
  - (i) a member of the Police Force;
  - (ii) a person who is employed by a State or another Territory of the Commonwealth to administer an Act in that State or Territory regulating the operations of casinos or gaming;
  - (iia) a person who is employed to administer a law in force in another country that regulates the operations of casinos or gaming in that country;
  - (iii) the Auditor-General for the purposes of performing functions or exercising powers imposed or conferred on the Auditor-General by or under the *Audit Act* or any other Act, or prevents the Auditor-General from disclosing that information or publishing that document if the disclosure or publication does not directly or indirectly divulge information identifying the affairs of a particular person; or
  - (iv) the Commissioner, within the meaning of the *Taxation (Administration) Act*, for the purposes of performing functions or exercising powers imposed or conferred on the Commissioner by or under the *Taxation (Administration) Act* or any other Act, or prevents the Commissioner from disclosing that information or publishing that document if the disclosure or publication does not directly or indirectly divulge information identifying the affairs of a particular person; or
- (c) the information is about:
  - (i) the number of gaming machines on any licensed premises;
  - (ii) the performance of gaming machines on any licensed premises; or
  - (iii) the profit distribution of a club.
- (3) A person to whom this section applies shall not be required to produce in court any document connected with the administration or execution of this Act in the person's custody in the course of his or her employment or to divulge or communicate to a court any matter or thing coming under the person's notice in the course of employment, unless the production, divulgence, communication or publication is made:

- (a) with the consent of the person from whom the information or documentation was obtained;
- (b) in connection with the administration or execution of this Act; or
- (c) for the purposes of legal proceedings arising out of this Act or of a report of such proceedings.

## **22A Recognition of interstate matters by Commission or Director**

- (1) Where the Commission or the Director:
  - (a) has power under this Act or the Regulations to take an action or to make, grant or issue an instrument (a ***Territory action or instrument***); and
  - (b) is satisfied that an action taken, or an instrument made, granted or issued, under a corresponding law (an ***interstate action or instrument***) is equivalent to the Territory action or instrument,

the Commission or the Director (as the case may be) may recognise the interstate action or instrument for the purposes of this Act.

- (2) Where an interstate action or instrument is recognised under subsection (1), this Act and the Regulations apply (with the necessary changes) in relation to the interstate action or instrument as if it were the Territory action or instrument to which it is equivalent.
- (3) In determining whether an interstate action or instrument is equivalent to a Territory action or instrument, the Commission or the Director may have regard to the matters that the Commission or Director considers relevant.
- (4) Where:
  - (a) the Commission or the Director has recognised an interstate action or instrument for the purposes of this Act; and
  - (b) the interstate action or instrument is altered, amended or varied, or is revoked or ceases to be in force, under the corresponding law,

the Commission or the Director (as the case may be) may review the decision to recognise the interstate action or instrument and may:

- (c) where the interstate action or instrument is altered, amended or varied – recognise the interstate action or instrument as altered, amended or varied or revoke the decision to recognise the interstate action or instrument; or
  - (d) where the interstate action or instrument is revoked or ceases to have effect – revoke the decision to recognise the interstate action or instrument.
- (5) Subsections (1), (2) and (3) apply (with the necessary changes) in relation to an interstate action or instrument that is reviewed under subsection (4).
- (6) Where the Commission or the Director is satisfied that:
- (a) a person has complied with certain requirements under a corresponding law; and
  - (b) those requirements are equivalent to requirements imposed on the person by or in relation to the Commission or the Director (as the case may be) under this Act or the Regulations,

the Commission or the Director (as the case may be) may waive compliance by the person with the requirements under this Act or the Regulations.

- (7) Where:
- (a) the Commission or the Director has waived compliance with requirements under this Act or the Regulations under subsection (6); and
  - (b) those requirements, or the requirements under the corresponding law that the Commission or the Director (as the case may be) determined for the purposes of the waiver were equivalent to those requirements, are altered, amended or varied or are repealed and replaced or are repealed without replacement,

the Commission or the Director (as the case may be) may revoke the waiver.

(8) In this section:

**corresponding law** means a law of a State or another Territory of the Commonwealth that corresponds with provisions of this Act.

## **Part 3                    Gaming machine licences**

### **23                    Gaming lawful and does not constitute nuisance**

- (1) Notwithstanding any other Act or law, gaming and the conduct of gaming on licensed premises under this Act is lawful.
- (2) Gaming and the conduct of gaming on licensed premises under this Act or any other Act does not in itself constitute a public or private nuisance.

### **24                    Application for gaming machine licence**

- (1) An application for a gaming machine licence may be made by:
  - (a) a body corporate that holds a club liquor licence;
  - (b) the holder of a hotel liquor licence;
  - (c) the holder of a prescribed liquor licence; or
  - (d) a body corporate that has applied to become the holder of:
    - (i) a hotel liquor licence;
    - (ii) a club liquor licence; or
    - (iii) a prescribed liquor licence; or
  - (e) a natural person who has applied to become the holder of:
    - (i) a hotel liquor licence; or
    - (ii) a prescribed liquor licence.
- (2) An application under this section may be made only in relation to, if the application is made by an applicant referred to in subsection (1)(a), (b) or (c), the premises specified in the applicant's liquor licence, or referred to in subsection (1)(d) or (e), the premises specified in the applicant's application for a liquor licence.
- (3) An application under this section:
  - (a) shall be made in the form determined by the Director;

- (b) shall be signed by the applicant or, in the case of an application by a body corporate, shall be executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorised in that behalf by the body corporate or in such other way as the Director allows;
- (c) shall state the full name, address and date of birth of the applicant or, in the case of an application by a body corporate, the full name, address and date of birth of the secretary and each executive officer of the body corporate;
- (d) in the case of an application by a body corporate, shall be accompanied by:
  - (i) a copy of the certificate of incorporation of the body corporate;
  - (ii) a copy of the constitution or other incorporating documents of the body corporate in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate and, in the case of the constitution of a club that is an incorporated association within the meaning of the *Associations Act*, certified as a true copy by the Commissioner of Consumer Affairs;
  - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given for the application to be made, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
  - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate;
- (e) shall be accompanied by, in the case of an application by a club:
  - (i) a statement detailing the number of members in each class of membership of the club;
  - (ii) a statement detailing the hours and days when the club's premises are open for the sale of liquor; and
  - (iii) a statutory declaration by the principal executive officer that the applicable constitution or by-laws of the club:
    - (A) have been complied with in making the application; and



- (B) do not prohibit the playing of gaming machines on the premises to which the application relates;
- (f) shall be accompanied by:
  - (i) if the application is made by an applicant referred to in subsection (1)(a), (b) or (c), evidence, satisfactory to the Director, of the liquor licence held for the premises to which the application relates; or
  - (ii) if the application is made by an applicant referred to in subsection (1)(d) or (e), a copy of the application for a liquor licence made in relation to the premises to which the first application relates;
- (g) shall be accompanied by a plan of the premises to which the application relates indicating the proposed locations on the premises where it is intended to install gaming machines;
- (h) shall be accompanied by a statutory declaration declaring:
  - (i) that the proposed locations referred to in paragraph (g) are within:
    - (A) if the application is made by an applicant referred to in subsection (1)(a), (b) or (c), the premises to which the liquor licence referred to in subsection (1)(a), (b) or (c) relates; and
    - (B) if the application is made by an applicant referred to in subsection (1)(d) or (e), the premises to which the proposed liquor licence referred to in subsection (1)(d) or (e) relates; and
  - (ii) that gaming machines installed in the locations will allow:
    - (A) proper cleaning and maintenance of the gaming machines;
    - (B) unrestricted access to fire exits in a way that complies with the *Fire Service Act*, the *Building Act* and the Regulations made under those Acts; and
    - (C) the proper use of things provided on the premises for safety and security;
- (j) shall specify full particulars of the ownership and any intended ownership of the premises;

- (k) shall specify the number of gaming machines in respect of which the licence is sought;
- (ka) is to specify details of the arrangements made for the monitoring of the gaming machines by a licensed monitoring provider and for the maintenance and repair of the gaming machines through a licensed service contractor;
- (m) shall be accompanied by an affidavit under section 44;
- (ma) if the applicant is a club, is to be accompanied by:
  - (i) a full and reasonable description of the club's neighbourhood;
  - (ii) a statement of the proportions in which the club's profits have been, or are proposed to be, allocated or distributed:
    - (A) to improve the club's facilities and services and to the club's reserves;
    - (B) for the purposes of the club as set out in the club's constitution or other incorporating documents or, if the applicant is a federation of clubs, for the purposes of each constituent club as set out in each constituent club's constitution or other incorporating documents;
    - (C) towards development of the club's neighbourhood; and
    - (D) as donations to or funding for community, recreational or service organisations operating in the club's neighbourhood;
  - (iii) a statement of:
    - (A) the proportion that the allocation or distribution referred to in subparagraph (ii)(B) bears to the aggregate of the allocations or distributions referred to in subparagraph (ii)(B), (C) and (D); and
    - (B) the proportion that the aggregate of the allocations or distributions referred to in subparagraph (ii)(C) and (D) bears to the aggregate of the allocations or distributions referred to in subparagraph (ii)(B), (C) and (D);

- (iv) a statement of:
  - (A) the proportion that the number of full members of the club bears to the total number of members of the club; and
  - (B) the proportion that the number of members of the club who are not full members bears to the total number of members of the club; and
- (v) a statement to the effect that the club's constitution or other incorporating documents or, if the applicant is a federation of clubs, the constitution or other incorporating documents of each constituent club do not prohibit, prevent or impede an allocation or distribution referred to in subparagraph (ii)(C) or (D);
- (n) shall contain or be accompanied by such other information, records, reports, documents and writings relating to the application and the applicant as are determined by the Director;
- (p) shall be forwarded to or lodged with the Director; and
- (q) shall be accompanied by the prescribed fee.

#### **24A Notice of application**

- (1) An applicant for a gaming machine licence must, within 28 days of lodging the application, publish a notice that the application has been made:
  - (a) in a newspaper or newspapers nominated by the Director; and
  - (b) in any other manner the Director considers suitable to publicise the application.
- (2) The notice must:
  - (a) include a description in sufficient detail to identify the location of the premises to which the application relates;
  - (b) contain details of the number of gaming machines applied for;
  - (c) contain details of where community impact information may be obtained;
  - (d) contain a statement that a person may make a written submission to the Director on the application within 30 days of the notice being first published in a newspaper;

- (e) contain any other particulars determined by the Director; and
- (f) be not less than a size determined by the Director.

## **25 Consideration of application**

- (1) On receiving an application for a gaming machine licence, and compliance by the applicant with this Part, the Director shall initiate and have followed through such investigations as the Director considers are necessary in relation to the application.
- (2) The Director must forward to the Commission the results of an investigation initiated under subsection (1) as soon as practicable after the investigation is completed.
- (3) The Commission must consider the application and anything accompanying it together with the results of investigations made under subsection (1) and any submissions received under section 24A and make an assessment of:
  - (a) the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;
  - (b) the suitability of the premises to which the application relates having regard to the primary activity conducted at the premises;
  - (c) the suitability of the location to which the application relates having regard to the population of the local area, the proximity of the premises to other gaming venues and the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers;
  - (d) the appropriateness of problem gambling risk management and responsible gambling strategies;
  - (e) economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism;
  - (f) if the applicant is a natural person – the financial stability, general reputation and character of the applicant;
  - (g) if the applicant is a body corporate – the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;

- (h) if the applicant is a federation of clubs – the business reputation and financial stability of each constituent club and the general reputation and character of the secretary and executive officers of each constituent club;
  - (i) whether the applicant is a fit and proper person to hold a licence;
  - (j) if a person is referred to in the affidavit under section 44 – whether that person is a fit and proper person to be an associate of a licensee;
  - (k) if the Commission considers it appropriate – whether any other associate of the applicant is a fit and proper person to be an associate of a licensee; and
  - (l) any other matter that the Commission considers necessary.
- (3A) In assessing whether an applicant is a fit and proper person to be a licensee, the Commission must have regard to the matters that are prescribed (if any).
- (4) Where the Commission considers that a proposed location indicated in the plan referred to in section 24(3)(g) is unsuitable for the installation of gaming machines, the Director shall:
- (a) advise the applicant, in writing, accordingly;
  - (b) return the plan of the premises to the applicant; and
  - (c) request the applicant to amend and resubmit the plan,
- as often as is necessary to satisfy the Commission's requirements.
- (5) If an applicant, within the time specified in the last request made under subsection (4), fails to amend and resubmit the plan, the Commission shall not take any further action in respect of the application.
- (6) The Commission or Director may require an applicant, or an associate of an applicant, to submit such additional information or material as the Commission or Director considers is necessary in order to make a decision or determination under this section.

- (7) Where the Commission, on consideration of an application under this section, considers that it should not be granted or proposes to determine the number of gaming machines to be authorised for use under the licence be less than the number requested in the application:
- (a) the Commission shall defer making a decision in respect of the application or a determination in respect of the number of gaming machines to be authorised for use; and
  - (b) the Director shall give written notice to the applicant and invite the applicant to submit, within such time as is specified in the notice, such additional information or material in support of the application or for the number of gaming machines requested in the application as the applicant thinks fit.
- (8) Any additional information or material submitted under subsection (6) or (7) shall be considered in making the decision or determination.
- (8A) In determining an application for a gaming machine licence by a club, the Commission must have regard to the improvements to the amenity of its neighbourhood that the club will make, or proposes to make, if the licence is granted.
- (9) The Commission shall not grant a gaming machine licence if:
- (a) in the case of an application by a natural person, the applicant has not attained the age of 18 years;
  - (b) in the case of an application by a body corporate, the secretary or any executive officer of the body corporate has not attained the age of 18 years; or
  - (c) the Commission considers that the installation and use of gaming machines on the premises to which the application relates is likely to affect adversely:
    - (i) the nature or character of the premises; or
    - (ii) the general use of the premises or the enjoyment of persons using the premises.

- (10) The Commission shall not grant a gaming machine licence to a club if the Commission considers:
- (a) that the club, including a voluntary association of persons from which it was formed:
    - (i) has not been operating for at least 2 years before the application was made; or
    - (ii) has not, during the whole of that period, been pursuing its objects or purposes in good faith;
  - (b) that payments for the rental or lease of the club's licensed premises are unreasonable;
  - (c) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement, that the provision is unreasonable;
  - (d) if members of the executive, governing or management body (however described) of the club are required to be nominated, or may be nominated, by a person who is not a member of the club, or by a voluntary association of persons, that this is not in the best interests of the club's members;
  - (e) if the club does not own the club's licensed premises and an executive officer or employee of the club is also the lessor, or an associate of the lessor, of the club, that this is not in the best interests of the club's members; or
  - (f) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club, that this is not in the best interests of the club's members.
- (11) Subsection (10)(a) does not apply if the Commission considers that granting the application:
- (a) is reasonable because of the club's contractual commitments made in pursuing its objects or purposes;
  - (b) is necessary to meet the reasonable gaming requirements of the club's members; and/or
  - (c) is in the public interest.
- (12) Subject to this section, the Commission shall determine the number of gaming machines authorised for use under the licence.

- (13) In determining the number of gaming machines under subsection (12), the Commission shall have regard to:
- (a) the number of gaming machines requested in the application made under section 24;
  - (c) the hours and days when the premises are open for the sale of liquor;
  - (d) in the case of a club, the number of members of the club;
  - (e) the size, layout and facilities of the premises to which the application relates;
  - (f) the size and layout of the proposed gaming machine areas;
  - (g) the anticipated level of gaming on the premises; and
  - (h) such other matters as the Commission considers are relevant.
- (14) The number of gaming machines determined under subsection (12):
- (a) is not to be greater than the number applied for or the maximum number prescribed for the category of licensed premises to which the licensed premises the subject of the application belongs; and
  - (b) is not to result in the number of machines in the locality of the licensed premises or in the Territory exceeding the maximum number of machines (if any) prescribed for that locality or for the Territory.
- (15) The Director shall, as soon as practicable after a decision is made by the Commission, give the applicant written notice of:
- (a) the decision; and
  - (b) if the application is refused, the reasons for the refusal.
- (16) On the grant of a gaming machine licence, the gaming machine areas are those locations on licensed premises indicated in the plan referred to in section 24(3)(g) or that plan as last amended and resubmitted under subsection (4).



**26 Clubs may be restricted to only one gaming machine licence**

If a club is a licensee, the Commission shall not grant an application by the club for another gaming machine licence (***new licence***) unless:

- (a) the Commission considers that the benefits to be offered to members of the club at the premises for which the new licence is sought (***new premises***) are distinct in nature to the benefits offered to the members at the existing licensed premises of the club (***existing premises***);
- (b) the new premises are located in close proximity to the existing premises; and
- (c) the Commission is satisfied that:
  - (i) it is in the best interests of the club's members that the new licence be granted; and
  - (ii) the granting of the new licence is not contrary to the public interest.

**27 Changes in circumstances of applicants and licensees**

- (1) Where a person applies for a licence under this Part and, before the application is granted or refused, there is:
  - (a) a change in the information in, or accompanying, the application or in a notice under this subsection; or
  - (b) any other change in the circumstances of the applicant that may affect the decision whether to grant or refuse the application,

the applicant must give the Director written notice of the change within 7 days after the change.

Penalty: 500 penalty units or imprisonment for 12 months.

- (2) If, after the grant of a gaming machine licence, an event referred to in subsection (3) happens, the licensee shall, not later than 7 days after the event happening, give the Director written notice of the event.

Penalty: 500 penalty units or imprisonment for 12 months.

- (3) Events required to be notified under this section are:
  - (a) the licensee changes name or address;

- (b) the licensee is convicted of:
  - (i) a crime; or
  - (ii) an offence against this Act;
- (c) if the licensee is a natural person, the licensee fails to discharge his or her financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws about bankruptcy; or
- (d) if the holder is a body corporate, the licensee is the subject of a winding-up (whether voluntarily or under a court order), appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under judicial management or administration.

## **28 Issue of gaming machine licences**

- (1) Where the Commission grants a gaming machine licence the Director shall issue the licence.
- (2) The gaming machine licence shall be in the form determined by the Director and shall specify:
  - (a) the name of the licensee;
  - (c) the conditions imposed under section 33(1)(b); and
  - (d) such other particulars as determined by the Commission or Director.

## **29 Schedule of gaming machine licences**

- (1) The Director shall, in respect of licensed premises, issue to the licensee a schedule of gaming machines.
- (2) A schedule of gaming machines shall:
  - (a) identify the gaming machine licence and the licensed premises to which it applies;
  - (b) specify the number of gaming machines and the number of gaming machines of each betting unit authorised for use under the licence in respect of the licensed premises;
  - (ba) specify the identification number issued by the Director under section 135 for each gaming machine authorised for use under the licence in respect of the licensed premises or required to be stored by the licensee under section 83; and

(c) specify the date from which the schedule is to apply.

(3) Where:

(a) the accuracy of a schedule of gaming machines is affected by anything done by the Director under section 39 or 40; or

(b) the Director is satisfied that a schedule of gaming machines has been damaged, lost or destroyed,

the Director shall issue another schedule of gaming machines to the licensee.

(4) The issue of a schedule of gaming machines under subsection (3) cancels the previous schedule of gaming machines on and from the date specified in the schedule and is taken for all purposes to be the schedule of gaming machines for the licensed premises.

(5) A licensee shall, not later than 14 days after receiving a schedule of gaming machines issued under subsection (3), deliver the cancelled schedule of gaming machines to the Director.

Penalty: \$5,000.

### **30 Gaming machine licences and schedules to be displayed**

A licensee shall display the licensee's gaming machine licence and the schedule of gaming machines in a conspicuous position on the licensed premises to which the licence and schedule relate.

Penalty: \$5,000.

### **31 Issue of copy of gaming machine licence**

(1) Where the Director is satisfied that a gaming machine licence has been damaged, lost or destroyed, the Director may, on payment of the prescribed fee, issue to the licensee a copy of the licence.

(2) A copy of a gaming machine licence issued under subsection (1) has, for all purposes, the same effect as the original licence of which it is a copy.

### **32 Term of gaming machine licence**

(1) Subject to this Act, a gaming machine licence is granted for an indefinite term.

(2) If a gaming machine licence is cancelled, revoked or otherwise ceases to be in force for a reason other than a reason provided for under this Act and it is necessary for any purpose whatsoever to

determine how long the licence would have remained in force but for the cancellation, revocation or cessation, it is to be assumed that the licence would have remained in force for a further 5 years.

### **33 Conditions of gaming machine licences**

- (1) A gaming machine licence is subject to:
  - (a) such conditions as may be prescribed; and
  - (b) such other conditions (including any variation of the conditions made under section 34) as the Commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 34.
- (2) A licensee shall not contravene or fail to comply with a condition to which the licensee's licence is subject.

Penalty: \$10,000 or imprisonment for 2 years.

### **34 Imposition or variation of conditions**

- (1) The Commission may, after granting a gaming machine licence, in the public interest or for the proper conduct of gaming:
  - (a) impose conditions or further conditions on the licence; or
  - (b) vary the conditions on the licence.
- (2) Where the Commission imposes or varies conditions under subsection (1), the Director shall give the licensee written notice of the conditions or varied conditions.
- (3) A condition imposed or varied under this section has effect from the date specified in the notice given under subsection (2).
- (4) A licensee shall, not later than 14 days after being given a notice under subsection (2), deliver the licence to the Director.

Penalty: \$5,000.

- (5) The Director shall, on receiving a gaming machine licence under subsection (4), endorse the licence with the condition imposed or varied and return the licence to the licensee.

### **35 Payment and recovery of amounts**

- (1) All amounts received by the Director under conditions referred to in section 33 shall be paid into the Central Holding Authority.

- (2) All amounts payable by a licensee under conditions of the gaming machine licence that remain unpaid may be recovered as a debt due and payable by the licensee to the Territory.

### **36 Community contribution by clubs**

- (1) The Minister may issue guidelines about the contribution the Minister expects clubs that are licensees will make to the community.
- (1A) The guidelines may specify the following:
- (a) how the contribution is to be calculated;
  - (b) the type and nature of contributions that are of benefit to the community;
  - (c) the reporting, accountability and acquittal process that a licensee must use;
  - (d) the minimum rate of contribution.
- (2) The Director may require a club that is a licensee to provide the Director with the information the Director considers appropriate to assess the contribution that the club is making to the community and, in particular, its contribution through gaming machines.
- (3) A club must comply with a requirement under subsection (2).
- Penalty: 100 penalty units.

### **37 Gaming machine licences cannot be transferred**

A gaming machine licence cannot be transferred to another person or to other premises.

### **38 Certain applications under *Liquor Act* subject to Director's certificate**

- (1) Notwithstanding anything in the *Liquor Act*, if a person applies under that Act to transfer a licence granted under that Act, the licence may only be transferred if the Director issues a certificate under subsection (2).
- (2) The Director may issue a certificate under this section only if:
- (a) the premises for which the application under the *Liquor Act* is made are not licensed premises under this Act; or

- (b) the premises for which the application is made are licensed premises under this Act:
  - (i) the Commission is prepared to grant a gaming machine licence to the applicant; and
  - (ii) satisfactory arrangements have been made for payment of any amounts payable by the current licensee under conditions referred to in section 33 or under Part 8.
- (3) If:
  - (a) a person applies under the *Liquor Act* for the transfer of a licence granted under that Act and applies, at the same time, for a gaming machine licence for the premises to which the application under the *Liquor Act* relates;
  - (b) the Commission is prepared to transfer the licence; and
  - (c) the Commission is prepared to grant the gaming machine licence,

the Director shall make arrangements so that the transfer of the liquor licence and the issue of the gaming machine licence happen at the same time.

### **39 Director to provide gaming machines until 30 June 2002**

- (1) Subject to this section and section 42, if the Director has agreed to provide gaming machines to a licensee, the Director shall provide to the licensee the number or increased number of gaming machines determined under section 25(13) or 41(5).
- (2) The gaming machine type, game, gaming token denomination and betting unit of a gaming machine provided under subsection (1) are to be as the Commission determines.
- (3) If at any time a sufficient number of gaming machines is not available to enable the Director to comply with subsection (1), the Director may provide to a licensee a lesser number than that determined.
- (4) The Director may only provide gaming machines under this section until 30 June 2002 and, after that date, is not responsible for the installation, alteration, adjustment, maintenance or repair of any gaming machines or for the provision of monitoring services in respect of any gaming machines, including gaming machines provided under this section.

- (5) If any of the gaming machines on a licensee's licensed premises are provided by the Director, the licensee must not:
- (a) purchase other gaming machines from a person other than the Director; or
  - (b) enter into a service contract or an agreement for the provision of monitoring services with a person other than the Director in relation to the gaming machines on the licensee's licensed premises, whether the machines are provided by the Director or not.

Penalty: 1 000 penalty units.

#### **40 Director may remove gaming machines**

- (1) The Director may, at any time, remove from licensed premises any or all of the gaming machines provided by the Director to a licensee.
- (3) Where:
- (a) the Commission determines under section 42(1) that the number of gaming machines authorised for use under the licence be decreased; or
  - (b) a gaming machine licence is cancelled,
- the Director shall remove or approve the procedure for removing from the licensed premises the number of gaming machines so determined or, as the case may be, all gaming machines on the former licensed premises.
- (4) Gaming machines removed under subsection (1) or (3) are to be in accordance with such gaming machine type, game, gaming token denomination and betting unit as the Commission determines.

#### **40A Director may alter gaming machines etc.**

- (1) The Director:
- (a) on application made by a licensee in the form determined by the Director and on payment of the prescribed fee, may approve that a gaming machine; or
  - (b) if the Director thinks fit to do so, may cause a gaming machine to,
- be altered to effect a change in the game, gaming token denomination or betting unit of the gaming machine.

- (2) The reasonable costs incurred by the Director under subsection (1)(b) are to be paid by the licensee whose gaming machine is altered.

#### **41 Increase in gaming machines**

- (1) A licensee may apply to have increased the number of gaming machines authorised for use under the licence.
- (2) An application under subsection (1):
- (a) shall be made in the form determined by the Director and signed or executed in the same way as is specified in section 24(3)(b);
  - (b) shall specify the increased number of gaming machines sought and the total number of gaming machines that would then be on the licensee's licensed premises should the application be granted;
  - (c) where appropriate, shall be accompanied by an application under section 43;
  - (ca) if the applicant is a club – must contain details of the extent to which the club's profits that have been allocated or distributed:
    - (i) toward development of the club's neighbourhood; and
    - (ii) as donations to or funding for community, recreation or service organisations operating in the club's neighbourhood,and details of the extent to which the allocation or distribution would be increased or otherwise varied if the Commission were to grant the application;
  - (cb) if section 41A applies – must be accompanied by a community impact analysis;
  - (d) shall contain or be accompanied by such other information, records, reports, documents and writings relating to the application or the licensee as are determined by the Director;
  - (e) shall be forwarded to or lodged with the Director; and
  - (f) shall be accompanied by the prescribed fee.
- (3) The Commission shall determine whether to grant or refuse to grant the application and, if granted, the increased number of gaming machines authorised for use under the licence.



- (4) In determining an application under section (1) the Commission shall have regard to:
- (a) the increased number of gaming machines applied for in the application;
  - (b) if section 41A applies – the community impact analysis;
  - (ba) if section 41B applies – any submissions received under the section;
  - (c) the gross monthly profit of existing gaming machines operated on the premises;
  - (d) the hours and days when the premises are open for the sale of liquor;
  - (e) the size, layout and facilities of the premises together with any proposed modification or relocation of the gaming machine areas of the premises; and
  - (f) such other matters as the Commission considers are relevant.
- (5) Where the Commission increases the number of gaming machines provided to a licensee, the increase shall not be greater than the number applied for and the total number of gaming machines that would then be on the licensed premises shall not be greater than the maximum number prescribed for the category of licensed premises to which the licensed premises the subject of the application belongs.
- (6) The Commission or Director may require the licensee to submit such additional information or material as the Commission or Director considers is necessary in order to make a determination under this section.
- (7) Where the Commission, on consideration of an application under this section, considers that it should not be granted or proposes to increase the number of gaming machines authorised for use under the licence by a number that is less than that requested in the application:
- (a) the Commission shall defer making a decision in respect of the application or determining the increase in the number of gaming machines; and
  - (b) the Director shall give written notice to the applicant and invite the applicant to submit, within such time as is specified in the notice, such additional information or material in support of the application as the applicant thinks fit.

- (8) Any additional information or material submitted under subsection (6) or (7) shall be considered in making the determination.
- (9) If an application under subsection (1) is refused, the Director shall as soon as practicable give the applicant written notice of, and the reasons for, the decision.

#### **41A Community impact analysis**

- (1) An application under section 41 must be accompanied by a community impact analysis if:
  - (a) the increased number of gaming machines sought to be authorised for use under the licence is 5 machines or more;
  - (b) the guidelines published by the Director under section 161A require the application to be accompanied by a community impact analysis; or
  - (c) the Director requires the application to be accompanied by a community impact analysis.
- (2) A community impact analysis must be in the form approved by the Commission and must provide the following details:
  - (a) the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;
  - (b) the suitability of the premises to which the application relates having regard to the primary activity conducted at the premises;
  - (c) the suitability of the location to which the application relates having regard to the population of the local area, the proximity of the premises to other gaming venues and the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers;
  - (d) the appropriateness of problem gambling risk management and responsible gambling strategies;
  - (e) economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism.

**41B Notice of application**

- (1) If section 41A applies, the licensee must, within 28 days of lodging the application under section 41, publish a notice that the application has been made:
  - (a) in a newspaper or newspapers nominated by the Director; and
  - (b) in any other manner the Director considers suitable to publicise the application.
- (2) The notice must:
  - (a) include a description in sufficient detail to identify the location of the premises to which the application relates;
  - (b) contain details of the increased number of gaming machines sought to be authorised for use under the licence;
  - (c) contain details of where community impact information may be obtained;
  - (d) contain a statement that a person may make a written submission to the Director on the application within 30 days of the notice being first published in a newspaper;
  - (e) contain any other particulars determined by the Director; and
  - (f) be not less than a size determined by the Director.

**42 Decrease in gaming machines**

- (1) The Commission may determine that the number of gaming machines authorised for use under the licence be decreased by such number as the Commission thinks fit.
- (2) If the Commission makes a determination under subsection (1), the Director shall, as soon as practicable after the determination is made, give the licensee written notice of, and the reasons for, the determination.
- (3) An application to the Commission under this section may be in the form of:
  - (a) an application made to the Director by a licensee that the number of gaming machines authorised for use under the licence be decreased, accompanied, where appropriate by an application under section 43;

- (b) a written request made to the Director from the Chairperson, the Director of the Northern Territory Fire Service or the relevant local government or community government council that the number of gaming machines provided to a licensee be decreased; or
  - (c) a written report of an inspector with respect to:
    - (i) any general change in conditions that have happened in the neighbourhood in which a licensee's licensed premises are located;
    - (ii) any change in a licensee's circumstances; or
    - (iii) any change in any of the matters referred to in section 25(9),  
  
since the licensee was granted a gaming machine licence and recommending that the number of gaming machines authorised for use under the licence be decreased.
- (4) Except where a licensee makes an application under subsection (3), the Director shall:
- (a) advise the licensee by written notice of the relevant details of a request or report made under subsection (3); and
  - (b) give the licensee the opportunity of making a submission with respect to the request or report within such time as is specified in the notice.
- (4A) In determining whether to decrease the number of gaming machines authorised for use under a licence held by a club, the Commission must have regard to the extent to which the club's profits have been allocated or distributed:
- (a) toward development of the club's neighbourhood; and
  - (b) as donations to or funding for community, recreation or service organisations operating in the club's neighbourhood.
- (5) A licensee shall surrender to the Director or a person authorised in that behalf by the Director the number of gaming machines specified in a determination made under subsection (1).

Penalty: \$50,000 or imprisonment for 5 years.

- (6) A person to whom a gaming machine is surrendered under subsection (5):
- (a) is authorised to be in possession of the gaming machine in accordance with procedures approved by the Director; and
  - (b) must not dispose of the gaming machine except in accordance with procedures approved by the Director.

Penalty: 500 penalty units or imprisonment for 5 years

#### **43 Modification or relocation of gaming machine areas**

- (1) A licensee shall not, without the approval of the Commission, modify or relocate the gaming machine areas of the licensee's licensed premises.

Penalty: \$10,000.

- (2) An application for an approval under subsection (1) shall be accompanied by:
- (a) a plan of the premises indicating the proposed locations on the premises where it is intended to install the gaming machines; and
  - (b) a statutory declaration declaring the matters referred to in subsection (3).
- (3) A statutory declaration under subsection (2)(b) shall declare that:
- (a) the proposed locations referred to in subsection (2)(a) are within the premises to which the licensee's liquor licence relates; and
  - (b) the gaming machines installed in the locations will allow:
    - (i) proper cleaning and maintenance of the gaming machines;
    - (ii) unrestricted access to fire exits in a way that complies with the *Fire and Emergency Act*, the *Building Act* and the Regulations made under those Acts; and
    - (iii) the proper use of things provided on the premises for safety and security.

- (4) Where the Commission, on consideration of an application under this section, considers that it should not be granted:
- (a) the Commission shall defer making a decision in respect of the application; and
  - (b) the Director shall give written notice to the applicant and invite the applicant to submit, within such time as is specified in the notice, such additional information or material in support of the application as the applicant thinks fit.
- (5) Any additional information or material submitted under subsection (4) shall be considered in making the decision.
- (6) Where the Commission:
- (a) determines that the number of gaming machines authorised for use under a licence be decreased; or
  - (b) considers that it is necessary for the proper conduct of gaming that the gaming machine areas of licensed premises be modified or relocated,
- the Director shall, by written notice, direct the licensee to modify or relocate the gaming machine areas of the licensee's licensed premises in accordance with the direction.
- (7) A licensee to whom a direction is given under subsection (6) shall not contravene or fail to comply with the direction.
- Penalty: \$10,000.
- (8) The Commission or Director may require a licensee who has made an application under this section to submit such information as the Commission or Director considers appropriate, and the licensee shall comply with the requirement.
- Penalty: \$10,000.
- (9) The Commission may, having regard to:
- (a) the size, layout and facilities of the licensee's licensed premises; and
  - (b) such other matters as the Commission considers are relevant,
- grant or refuse to grant an application under subsection (1).

- (10) On and from the date of completion of a modification or relocation approved or directed under this section, the gaming machine areas of the licensed premises are as modified or relocated.
- (11) If an application under this section is refused, the Director shall, as soon as practicable after the application is refused, give the applicant written notice of, and the reasons for, the decision.

#### **44 Disclosure of influential or benefiting parties**

- (1) At the time of making an application for a gaming machine licence, the applicant must forward to or lodge with the Director an affidavit made under this section.
- (2) An applicant or licensee who undergoes any change in circumstances in relation to information contained in the last affidavit forwarded or lodged under this section shall, not later than 7 days after the change, forward to or lodge with the Director another affidavit under this section.

Penalty: 500 penalty units or imprisonment for 12 months.

- (3) An affidavit under this section shall be made by the applicant or licensee or, where the applicant or licensee is a body corporate, by:
  - (a) the principal executive officer of the body corporate; or
  - (b) if that officer does not have knowledge of the facts, by some other person who has knowledge of the facts and who is authorised by the body corporate to make the affidavit.
- (4) Subject to subsection (5), an affidavit under this section shall be in the form determined by the Director and shall disclose:
  - (a) whether or not there is any person (other than, where the applicant or licensee is a body corporate, the secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made:
    - (i) in the case of the applicant or licensee being a natural person, by that person; or
    - (ii) in the case of the applicant or licensee being a body corporate, by the body corporate or the secretary or an executive officer of the body corporate,

in relation to the conduct of gaming by the applicant or licensee;

- (b) whether or not there is any person other than the applicant or licensee who by any lease, agreement or arrangement (other than a contract, agreement or other arrangement entered into for the purposes of this Act or the Regulations and approved by the Director) may expect any benefit from the applicant or licensee in relation to the conduct of gaming by the applicant or licensee;
- (c) if there are any persons able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b):
  - (i) where any such person is a natural person, the person's full name, address and date of birth;
  - (ii) where any such person is a body corporate other than a club, the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate;
  - (iii) where any such person is a club or other voluntary association of persons:
    - (A) the name of the club or voluntary association of persons;
    - (B) the full name, address and date of birth of the secretary and each executive officer of the club or voluntary association of persons;
    - (C) particulars of any liquor licence held by the club or voluntary association of persons; and
    - (D) details of the objectives (if any) of the club or voluntary association of persons and whether or not the club is a non-proprietary club or the voluntary association of persons conducts its business in the same way as a non-proprietary club; and
  - (iv) full and correct particulars of the lease, agreement or arrangement; and
- (d) in the case of the applicant or licensee being a body corporate other than a club, the names of all persons who have a substantial holding (within the meaning of section 9 of the Corporations Act 2001) in the body corporate.



- (5) An affidavit under this section need not disclose anything that is prescribed for the purposes of this subsection.

#### **45 Investigation of licensees and associates**

- (1) At any time while a gaming machine licence is in force the Director may cause to be undertaken such investigations as the Director considers are necessary in order to be satisfied that the licensee or any associate of the licensee is a fit and proper person to be a licensee or an associate of the licensee.
- (2) The Director may require a person to whom investigations under subsection (1) relate to submit such information or material as the Director considers necessary.
- (3) A person shall not contravene or fail to comply with a requirement of the Director given under subsection (2).

Penalty: \$10,000 or imprisonment for 2 years.

#### **46 Cessation or commencement of executive officer or secretary**

If an applicant under section 24 or a licensee is a body corporate, the body corporate shall notify the Director, in the form determined by the Director:

- (a) that a person has ceased to be the secretary or an executive officer of the body corporate;
- (b) that a person has commenced as the secretary or an executive officer of the body corporate; and
- (c) the full name, address and date of birth of any person referred to in paragraph (b),

not later than 7 days after the cessation or commencement.

Penalty: \$10,000 or imprisonment for 2 years.

#### **47 Surrender of gaming machine licences**

- (1) A licensee may surrender the licensee's gaming machine licence by forwarding to or lodging with the Director the licence and a notification in the form determined by the Director.

- (1A) As soon as the licensee's gaming machine licence and the notification is forwarded to or lodged with the Director, the licensee must cease operating all gaming machines on the licensee's licensed premises.

Penalty: 2 500 penalty units.

- (2) A notification under subsection (1) shall be signed or executed in the same way as that specified for an application made under section 24(3)(b).
- (3) The Director may require a licensee surrendering a gaming machine licence under this subsection to submit such information or material in relation to the licence as the Director thinks fit.
- (4) The licensee shall not contravene or fail to comply with a requirement of the Director given under subsection (3).

Penalty: \$10,000.

- (5) The Director must, as soon as practicable after receiving a gaming machine licence and notification under subsection (1):
- (a) remove all gaming machines from the licensee's licensed premises; or
  - (b) approve the method of removing the gaming machines and the method of disposing of those machines.
- (6) The surrender of a gaming licence takes effect when it is accepted by the Director or at a later time determined by the Director.
- (7) Before accepting the surrender of a gaming machine licence, the Director must consider whether the licensee has complied with all financial and legal obligations under the licence and may refuse to accept the surrender until all of those obligations have been complied with.

#### **48 Cancellation or suspension of gaming machine licences in certain circumstances**

If the liquor licence for premises licensed under this Act is:

- (a) cancelled, transferred or surrendered, the gaming machine licence for the premises is cancelled; or
- (b) suspended, the gaming machine licence for the premises is suspended for the same period as the liquor licence is suspended.

**49 Cancellation, suspension etc. of gaming machine licences**

- (1) A ground for cancellation or suspension of a gaming machine licence arises if:
- (a) the licensee:
    - (i) ceases to use the licensed premises for the conduct of gaming;
    - (ii) obtained the licence on false, erroneous or misleading information;
    - (iii) acquires, installs, uses or otherwise deals with a gaming machine in contravention of this Act;
    - (iv) fails to comply with a provision of Part 8;
    - (v) fails to comply with a condition to which the licence is subject;
    - (vi) fails to forward or lodge an affidavit in accordance with section 44(2); or
    - (vii) fails to comply with section 39(5)(a);
  - (b) the licensee or an associate of the licensee:
    - (i) is convicted of a crime;
    - (ii) is convicted of an offence against this Act;
    - (iii) fails to discharge the licensee's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
    - (iv) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under judicial management or administration;
    - (v) fails to comply with a written direction given to the licensee or associate by the Commission or Director; or
    - (vi) fails, when required, to supply information or material to the Commission, the Director or an inspector, or supplies information or material that to the knowledge of the licensee or associate is false, erroneous or misleading in a material particular; or

- (c) the Commission:
- (i) considers that the licensee has not made all reasonable efforts to comply with section 112;
  - (ii) considers that the licensee has not made all reasonable efforts to enforce rules required to be enforced under section 90;
  - (iii) considers that the licensee or an associate of the licensee is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a licensee or to be an associate of the licensee;
  - (iv) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the decision under section 25 may have been that the licence be refused;
  - (v) considers, if the licensee is a club:
    - (A) that the club has ceased to be a non-proprietary club;
    - (B) that the proceeds from the conduct of gaming are being applied in a way that does not promote the objectives of the club;
    - (C) that payments for the rental or lease of the club's licensed premises are unreasonable;
    - (D) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement, that the provision is unreasonable;
    - (E) if members of the executive, governing or management body (however described) of the club are required to be nominated, or may be nominated, by a person who is not a member of the club or by a voluntary association of persons, that this is not in the best interests of the club's members;
    - (F) if the club does not own the club's licensed premises and an executive officer or employee of the club is also the lessor, or an associate of the

lessor, of the club, that this is not in the best interests of the club's members;

(G) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club, that this is not in the best interests of the club's members;

(H) that payments made under the club's objects are not in the best interests of the club's members;

(J) that payments made for things purchased by the club are unreasonable;

(K) that salaries, wages, allowances or benefits paid or payable by the club to the club's executive officers or employees are unreasonable; or

(M) that payments for services provided to the club are unreasonable or are on the basis of a percentage of the club's income, profits or earnings from the conduct of gaming or spending related to the conduct of gaming;

(vi) considers that there has been an unauthorised interference (whether by the licensee or someone else) with an electronic monitoring system installed on the licensee's licensed premises; or

(vii) considers that the financial circumstances of the licensee have changed since the granting of the licence and that the licensee is no longer financially viable.

(2) Where the Commission is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the Director shall issue to the licensee a written notice to show cause why action should not be taken with respect to the gaming machine licence under this section.

(3) Where the Director is of the opinion that any act, omission or other thing constitutes a ground under subsection (1), whether or not it is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the Director:

(a) shall notify the Commission; and

- (b) shall, when directed by the Commission, issue to the licensee a written notice to show cause why action should not be taken with respect to the gaming machine licence under this section.
- (4) The Director shall issue a copy of a notice issued under this section to any other person whom the Director considers has an interest in the gaming machine licence.
- (5) A notice issued under this section shall set out the grounds giving rise to its issue and shall specify a date, being not earlier than 7 days after its issue, on or before which cause is required to be shown.
- (6) Subject to this section, a notice under this section shall be in such form and contain such matters as the Director thinks fit.
- (7) A person to whom a notice under this section is issued may give a written answer to the Director at any time not later than the date specified in the notice.
- (8) A person to whom a copy of a notice is issued under subsection (4) may make such submissions to the Director as the person thinks fit at any time not later than the date specified in the notice.
- (9) The Commission shall consider answers given in reply to the notice to show cause under subsection (7) and submissions made under subsection (8) and, if the Commission considers that:
  - (a) answers given or submissions made in reply to or in respect of the notice are satisfactory, the Commission shall not take any action or any further action in relation to the notice;
  - (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory but action to cancel or suspend the gaming machine licence is not warranted, the Commission may issue a letter of censure to the licensee, censuring the licensee in respect of any matter connected with or giving rise to the notice to show cause;
  - (c) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made, the Commission may by written notice give such directions to the licensee as the Commission considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice; or
  - (d) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made, the Commission may cancel, or

suspend for such period as the Commission determines, the gaming machine licence.

- (10) If a direction given by the Commission under subsection (9)(c) is not complied with within the time specified in the notice, the Commission may cancel or suspend the gaming machine licence.
- (11) Where the Commission is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is not of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the Commission may by letter censure the licensee in respect of any matter connected with or giving rise to the ground.
- (12) Where the Director issues a written notice to a licensee under this section, the Director shall submit to the Commission the notice and answers, any submissions made and such other information or material in the Director's possession as the Director considers is relevant.
- (13) If the Commission cancels or suspends a gaming machine licence, the Director shall, as soon as practicable after the licence is cancelled or suspended, give the licensee written notice of, and the reasons for, the cancellation or suspension.
- (14) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (13) or from another date specified in the notice.
- (15) On receipt of a notice of cancellation under subsection (13), the person to whom the notice is addressed shall deliver the licence to the Director not later than 14 days after receiving the notice.

Penalty: \$5,000.

- (16) The Commission may:
- (a) revoke the suspension in respect of the unexpired period of suspension; or
- (b) reduce the period of suspension,
- imposed under this section.

## **50 Suspension of gaming machine licence pending decision**

- (1) Where the Commission is of the opinion that an act, omission or other thing that constitutes a ground under section 49(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected,

the Commission may suspend the gaming machine licence until any action taken, or to be taken, under section 49 is finally determined.

- (2) Where the Commission suspends a gaming machine licence under subsection (1), the Director shall, as soon as practicable after the licence is suspended, give the licensee written notice of, and the reasons for, the suspension.
- (3) The suspension of a gaming machine licence under this section takes effect from when the notice referred to in subsection (2) is given to the licensee or the suspension of the licence is made known to the licensee (whichever is the first to happen).

#### **51 Effect of suspension of licence**

The suspension of a gaming machine licence under section 48, 49 or 50 has the same effect as the cancellation of the licence but without prejudice to:

- (a) any penalty or other liability incurred by the licensee; or
- (b) the exercise of the powers of the Commission or the powers or authorities of the Director or an inspector.

#### **52 Gaming machines not to be played**

Where a gaming machine licence is issued to a person and the licence is not in force, that person shall not play, or knowingly permit any other person to play, gaming machines provided to that person.

Penalty: \$50,000 or imprisonment for 5 years.

#### **53 Recovery of gaming machine etc.**

- (1) The cancellation or surrender of a gaming machine licence does not affect:
  - (a) the force or effect of the conditions of licence in respect of any amounts that are payable at the time of cancellation or surrender or which become payable; or
  - (b) the recovery of debts due under this Act to the Territory.



- (2) A person who held a gaming machine licence that is cancelled shall provide all reasonable assistance to the Director, or any person acting on behalf of or approved by the Director, to enable the removal of any gaming equipment or ancillary or related property from the premises to which the licence related.

Penalty: \$10,000.

#### **54 Appointment of administrator instead of suspension**

- (1) Without limiting section 49 or 50, the Commission may, in respect of a club, instead of suspending a gaming machine licence under section 49 or 50, appoint a person to administer the affairs of the club.
- (2) A person appointed under subsection (1) has, to the exclusion of any other person or body of persons, the powers of the secretary and executive officers of the club until the Commission orders otherwise.

#### **55 Expenses of administration**

- (1) The expenses of and incidental to the administration of the affairs of a club by a person appointed under section 54 are payable by the club.
- (2) The remuneration of a person appointed under section 54 is an expense referred to in subsection (1) and shall be fixed by the Commission.

#### **56 Liability for losses incurred during administration**

- (1) A person appointed by the Commission to administer the affairs of a club is not liable for any loss incurred by the club during the person's term of office unless the loss was attributable to the person's:
- (a) wilful misconduct;
  - (b) gross negligence; or
  - (c) wilful failure to comply with the provisions of this Act.
- (2) Neither the Territory nor the Commission is liable for any loss incurred by a club during the term of office of a person appointed under section 54 to administer the affairs of the club, whether or not the person is liable.

**57            Continuance of licences in certain circumstances**

- (1) If, under the *Liquor Act*, a person is authorised to conduct the business of a person who is a licensee under this Act, then, subject to this Act:
  - (a) the licensee's gaming machine licence continues in force for the period of the authorisation; and
  - (b) the first person is authorised to conduct gaming on the licensee's licensed premises for the period of the authorisation.
- (2) A person authorised under subsection (1)(b):
  - (a) is subject to the same liabilities under this Act as a licensee; and
  - (b) is taken, for the purposes of Part 8, to be the licensee whose business the person is authorised to conduct.

**Part 4            Licensing of repairers, service contractors, monitoring providers and machine managers**

**57A            Application**

- (1) The following are licences under this Part:
  - (a) a repairer's licence referred to in section 58;
  - (b) a service contractor's licence referred to in section 59;
  - (c) a monitoring provider's licence referred to in section 59A;
  - (d) a machine manager's licence referred to in section 60.
- (2) Subject to a contrary intention, a reference in this Part to the grant, renewal, cancellation or suspension of, or the imposition or variation of conditions on, a monitoring provider's licence (other than a monitoring provider's licence that is a provisional or interim licence) by the Director is to be read as a reference to the grant, renewal, cancellation or suspension of, or the imposition or variation of conditions on, a monitoring provider's licence by the Commission.

**58 Repairers**

- (1) A person must not install, alter, adjust, maintain or repair gaming equipment unless the person:
- (a) is authorised under a repairer's licence to install, alter, adjust, maintain or repair the equipment; and
  - (b) installs, alters, adjusts, maintains or repairs the equipment on behalf of:
    - (i) a licensed service contractor who is the service contractor under a service contract with the licensee in respect of the equipment; or
    - (ii) a licensed monitoring provider who is the monitoring provider under an agreement with the licensee to provide a basic monitoring service and the agreement includes the installation, alteration, adjustment, maintenance or repair of the equipment.

Penalty: 500 penalty units or imprisonment for 6 months.

- (2) Subsection (1) does not apply in relation to installations, alterations, adjustments, maintenance or repairs that are prescribed.

**59 Service contractors**

- (1) A person must not enter into a service contract with a licensee in respect of gaming equipment on the licensee's licensed premises unless the person is authorised under a service contract licence to enter into the contract and the Director has approved the terms of the service contract.

Penalty: 500 penalty units or imprisonment for 6 months.

- (2) A licensee must not enter into a service contract with a person in respect of gaming equipment on the licensee's licensed premises unless the person is authorised under a service contract licence to enter into the contract and the Director has approved the terms of the service contract.

Penalty: 500 penalty units or imprisonment for 6 months.

- (3) A licensed service contractor must not subcontract any of the obligations of the licensed service contractor under a service contract to another person unless the other person is authorised under a service contract licence or repairer's licence to undertake those obligations.

Penalty:        500 penalty units.

- (4) A licensed service contractor or licensed repairer to whom any of the obligations of a licensed service contractor under a service contract have been subcontracted must not further subcontract those obligations.

Penalty:        500 penalty units.

- (5) A licensed service contractor must not employ a person to install, alter, adjust, maintain or repair gaming equipment unless the person is authorised under a repairer's licence to install, alter, adjust, maintain or repair the equipment.

Penalty:        500 penalty units.

- (6) Where:

- (a) a licensed service contractor proposes to carry out work under a service contract on gaming equipment on a licensee's licensed premises; and
- (b) the proposed work may affect the operation of electronic monitoring equipment used to provide a basic monitoring service in respect of the gaming equipment,

the licensed service contractor:

- (c) must notify the licensed monitoring provider who provides the basic monitoring service in respect of the gaming equipment of the proposed work; and
- (d) must not carry out the proposed work without the approval of the Director or the licensed monitoring provider.

Penalty:        500 penalty units.

#### **59A        Monitoring providers**

- (1) A person must not enter into an agreement with a licensee to provide a basic monitoring service in respect of gaming equipment on the licensee's licensed premises unless the person is authorised under a monitoring provider's licence to enter into the agreement

and the Director has approved the terms of the agreement.

Penalty: 500 penalty units or imprisonment for 6 months.

- (2) A licensee must not enter into an agreement with a person to provide a basic monitoring service in respect of gaming equipment on the licensee's licensed premises unless the person is authorised under a monitoring provider's licence to enter into the agreement and the Director has approved the terms of the agreement.

Penalty: 500 penalty units or imprisonment for 6 months.

- (3) A licensed monitoring provider must not enter into an agreement with a licensee to provide a basic monitoring service in respect of gaming equipment on the licensee's licensed premises if any of the gaming machines on the premises are provided by the Director.

Penalty: 500 penalty units.

- (4) The licensed monitoring provider under an agreement to provide a basic monitoring service must not provide additional services (for example, the installation, alteration, adjustment, maintenance or repair of gaming equipment that is not electronic monitoring equipment) unless those additional services are approved by the Commission or the Director.

Penalty: 500 penalty units.

- (5) A licensed monitoring provider must not:
- (a) employ a person to install, alter, adjust, maintain or repair gaming equipment; or
  - (b) subcontract to a person any of the licensed monitoring provider's obligations to install, alter, adjust, maintain or repair gaming equipment under an agreement to provide a basic monitoring service,

unless the person is authorised under a repairer's licence to install, alter, adjust, maintain or repair the equipment.

Penalty: 500 penalty units.

- (6) A licensee who does not enter into an agreement with a licensed monitoring provider to provide a basic monitoring service in respect of gaming equipment on the licensee's licensed premises commits an offence.

Penalty: 500 penalty units or imprisonment for 6 months.

- (7) Subsection (6) does not apply to a licensee if the gaming equipment is provided by the Director.
- (8) The Director must enter into an agreement on behalf of the Territory with a licensed monitoring provider to provide a basic monitoring service in respect of gaming equipment on a licensee's licensed premises that is provided by the Director.

## **60 Machine managers**

- (1) Subject to subsections (4) and (6), duties that are prescribed shall be carried out only by a licensed machine manager employed under subsection (3) to carry out the duties in respect of the licensee's licensed premises.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) Subject to subsections (4) and (6), a person shall not:

- (a) employ or allow; or
- (b) cause another person to employ or allow,

a person who is not a licensed machine manager employed under subsection (3) in respect of the particular licensed premises to carry out the duties prescribed for the purposes of subsection (1).

Penalty: \$10,000 or imprisonment for 2 years.

- (3) Subject to subsection (4), a licensee shall ensure at all times in respect of each of the licensee's licensed premises that there is at least one licensed machine manager employed by the licensee to carry out the duties prescribed for the purposes of subsection (1).

Penalty: \$10,000 or imprisonment for 2 years.

- (4) If a licensee is unable to comply with subsection (3), the licensee, with the approval of the Director, may employ a sufficient number of persons (who are applicants for a machine manager's licence) so that there is at least one person who is a licensed machine manager or an applicant for a machine manager's licence to carry out the duties prescribed for the purposes of subsection (1) in respect of each of the licensee's licensed premises.

- (5) Subject to subsection (6), a licensee shall ensure that at all times when gaming is being conducted on the licensee's licensed premises there is in attendance on the premises at least one licensed machine manager employed by the licensee under subsection (3) or an applicant for a machine manager's licence

employed by the licensee under subsection (4) in respect of the premises.

Penalty: \$10,000 or imprisonment for 2 years.

(6) If a licensee is unable to comply with subsection (5), the licensee may, with the written approval of the Director, employ a person to carry out the duties prescribed for the purposes of subsection (1) for a period of not more than 7 days.

(7) Until a licensee is able to comply with subsection (5) or obtains the Director's approval under subsection (6), the licensee shall cease the conduct of gaming on the licensee's licensed premises.

Penalty: \$10,000 or imprisonment for 2 years.

#### **61 Certain persons to apply for machine manager's licence**

(1) Where the Director considers that a person connected with, or who is an employee of, a licensee:

(a) has the power to exercise a significant influence over the conduct of gaming by the licensee; or

(b) because of that person's remuneration or policy making position or other reason, exercises or is able to exercise authority of such a nature or to such an extent in respect of the conduct of gaming by the licensee as to make it desirable in the public interest that that person be a licensed machine manager,

the Director shall, by written notice, require that person to apply for a machine manager's licence not later than 7 days after the receipt by that person of the notice.

(2) The Director shall cause a copy of a notice under subsection (1) to be served on the licensee.

(3) A person who fails to comply with a notice under subsection (1) and continues to be connected or employed as referred to in that subsection is guilty of an offence.

Penalty: \$10,000 or imprisonment for 2 years.

(4) Where a person fails to comply with a notice under subsection (1) and continues to be connected or employed as referred to in subsection (1), the Director shall cause a written notice of the failure to be served on the licensee.

- (5) The licensee shall, immediately a notice under subsection (4) is served, notwithstanding any other Act or law, terminate the connection with or employment of the person.

Penalty:        \$10,000 or imprisonment for 2 years.

- (6) If the Director refuses to grant an application made by a person referred to in subsection (1):

(a) the person shall, on receipt of notification of the refusal, cease to be connected or employed as referred to in subsection (1); and

(b) the licensee, on receipt of the notification of the refusal, shall terminate the connection or employment.

Penalty:        \$10,000 or imprisonment for 2 years.

- (7) A licensee does not incur any liability in respect of the termination under this section of any connection or employment referred to in subsection (1).

## **62            Applications for licence under this Part**

- (1) An application for the grant of a licence under this Part:

(a) shall be made in the form determined by the Director;

(b) shall be signed by the applicant or, in the case of an application by a body corporate, shall be executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorised in that behalf by the body corporate or in such other way as the Director allows;

(c) shall state the full name, address and date of birth of the applicant or, in the case of an application by a body corporate, the full name, address and date of birth of the secretary and each executive officer of the body corporate;

(d) in the case of an application for a repairer's or machine manager's licence, shall be accompanied by photographs of the applicant, of such type and number, and certified, as determined by the Director;

(e) in the case of an application by a body corporate, shall be accompanied by:

(i) a copy of the certificate of incorporation of the body corporate;



- (ii) a copy of the rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate;
  - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
  - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate;
- (f) in the case of an application for a repairer's, service contractor's or monitoring provider's licence, shall be accompanied by an affidavit under section 74;
- (g) shall contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as determined by the Director;
- (h) shall be forwarded to or lodged with the Director; and
- (j) shall be accompanied by the prescribed fee.
- (2) It is a condition precedent to consideration of an application for a repairer's or machine manager's licence that the applicant is agreeable to the applicant's fingerprints and palm prints being taken by or on behalf of the Director.
- (3) An application for a service contractor's or monitoring provider's licence may be made only by a body corporate.

### **63 Changes in circumstances of applicants for and holders of licences**

- (1) Where a person applies for a licence under this Part and, before the application is granted or refused, there is:
- (a) a change in the information in, or accompanying, the application or in a notice under this subsection; or
  - (b) any other change in the circumstances of the applicant that may affect the decision whether to grant or refuse the application,

the applicant must give the Director written notice of the change within 7 days after the change.

Penalty: 500 penalty units or imprisonment for 12 months.

- (2) If, after the grant of a licence under this Part, an event referred to in subsection (3) happens, the holder of the licence shall, not later than 7 days after the happening of the event, give the Director written notice of the event.

Penalty: 500 penalty units or imprisonment for 12 months.

- (3) The events required to be notified under subsection (2) are:
- (a) the holder of the licence changes name or address; or
  - (b) the holder of the licence:
    - (i) is convicted of a crime;
    - (ii) is convicted of an offence against this Act;
    - (iii) if the holder is an individual, fails to discharge his or her financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws about bankruptcy; or
    - (iv) if the holder is a body corporate, is the subject of a winding-up (whether voluntarily or under a court order), appointment of a liquidator, appointment of a receiver or receiver and manager, or is placed under judicial management or administration.

#### **64 Consideration of application**

- (1) On receiving an application for a licence under this Part, and compliance by the applicant with this Part in relation to the application, the Director shall:
- (a) if the application is for a repairer's or machine manager's licence, cause the fingerprints and palm prints of the applicant to be taken;
  - (b) initiate and have followed through such investigations as the Director considers are necessary in relation to the application; and

- (c) consider the application and anything accompanying it together with the results of investigations made under paragraph (b) and make an assessment of:
  - (i) if the applicant is a natural person, the financial stability, general reputation and character of the applicant;
  - (ii) if the applicant is a body corporate, the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate;
  - (iii) if any person is referred to in an affidavit under section 74, whether that person is a fit and proper person to be an associate of the applicant;
  - (iv) if the Director considers it appropriate, whether any other associate of the applicant is a fit and proper person to be an associate of the applicant; and
  - (v) whether the applicant is a fit and proper person to be a holder of the licence for which application is made.
- (1A) In considering an application for a licence under this Part, the Director must have regard to the matters (if any) that are prescribed.
- (2) The Director shall not grant a licence if:
  - (a) the applicant is an individual, the applicant has not attained the age of 18 years or has failed to have fingerprints and palm prints taken under subsection (1)(a) or section 62(2);
  - (b) the applicant is a body corporate, the secretary or any of the executive officers of the body corporate has not attained the age of 18 years;
  - (c) the applicant or an associate of the applicant has failed to submit information or material requested by the Director under subsection (3); or
  - (d) subject to the *Criminal Records (Spent Convictions) Act* – the applicant has been found guilty of an offence:
    - (i) involving dishonesty since he or she attained the age of 18 years;
    - (ii) against this Act; or

(iii) that is punishable, on conviction, by a maximum penalty of not less than 5 years imprisonment.

(3) The Director may require an applicant for a licence under this Part, or an associate of the applicant, to submit such additional information or material as the Director considers is necessary in order to make a decision in respect of the application.

(4) Where:

(a) an application for a repairer's or machine manager's licence is refused; or

(b) a person ceases to be a licensed repairer or licensed machine manager,

fingerprints and palm prints of the applicant or person taken under subsection (1)(a), in respect of that application or licence, are to be destroyed as soon as practicable.

## **65 Grant or refusal to grant licence**

(1) Subject to this Act, the Director may grant or refuse to grant a licence under this Part to an applicant.

(2) The Director shall as soon as practicable give an applicant written notice of:

(a) the Director's decision; and

(b) if the application is refused, the reasons for the refusal.

(3) Where the Director has given an approval under section 60(4), the Director shall give a copy of a notice under subsection (2) to the licensee to whom the approval was granted.

## **66 Form of licence**

A licence under this Part shall be in the form determined by the Director and shall:

(a) specify the name of the holder of the licence;

(b) contain, in the case of a repairer's licence or machine manager's licence, a photograph of the holder of the licence;

(c) specify the expiry date of the licence;

(d) specify the conditions imposed under section 69; and

- (e) specify such other particulars as determined by the Director.

**67            Issue of copy of licence**

- (1) Where the Director is satisfied that a licence under this Part has been damaged, lost or destroyed, the Director may, on payment of the prescribed fee, issue to the holder of the licence a copy of the licence.
- (2) A copy of a licence issued under subsection (1) has, for all purposes, the same effect as the original licence of which it is a copy.

**68            Term of licences**

- (1) Subject to this Act, the term of a licence under this Part is for:
  - (a) the period that is prescribed in respect of the licence, which period may be shorter or longer than 5 years; or
  - (b) if no period is prescribed in respect of the licence – 5 years.
- (2) A licence under this Part may be renewed.

**69            Conditions of licence**

A licence under this Part is subject to:

- (a) the conditions (if any ) that are prescribed; and
- (b) the conditions (including as varied under section 70) the Director may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 70.

**70            Variation of condition of licence**

- (1) The Director, in the public interest or for the proper conduct of gaming, may, after granting a licence under this Part, :
  - (a) impose conditions or further conditions on the licence; or
  - (b) vary the conditions of the licence.
- (2) Where the Director imposes or varies conditions under subsection (1), the Director shall give the holder of the licence written notice of:
  - (a) the conditions or varied conditions; and

- (b) reasons for the imposition or variation.
- (3) A condition imposed or varied under this section has effect from the date specified in the notice given under subsection (2).
- (4) A holder of a licence shall, not later than 14 days after being given a notice under subsection (2), deliver the licence to the Director.  
  
Penalty:        \$5,000.
- (5) The Director shall, on receiving a licence under subsection (4), endorse the licence with the conditions imposed or varied and return the licence to the holder.

## **71        Renewal of licences**

- (1) A holder of a licence under this Part may apply to the Director for renewal of the licence.
- (2) An application under subsection (1) shall:
  - (a) be in the form determined by the Director;
  - (b) in the case of a repairer's or machine manager's licence, be accompanied by photographs of the applicant of such type and number as determined by the Director;
  - (c) be accompanied by the prescribed fee;
  - (d) be made, unless the Director otherwise allows, not less than one month before the expiration of the licence;
  - (e) in the case of an application by a body corporate, be accompanied by a list of the names, addresses and dates of birth of:
    - (i) the secretary of the body corporate;
    - (ii) the executive officers of the body corporate; and
    - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
  - (f) in the case of a repairer's or service contractor's licence, be accompanied by an affidavit under section 74.

- (3) If the Director considers that special circumstances exist, the Director may extend the term of a licence under this Part, or renewal of the licence, for not more than one month from the date of its expiration to allow the holder of the licence to comply with this section.
- (4) During the period of an extension under subsection (3), the licence has the same effect as if it had been renewed.
- (5) Subject to subsection (5A), if a licensee complies with this section, the Director shall renew the licence commencing on:
  - (a) the day after its last expiry; or
  - (b) the day it would have last expired apart from its extension under subsection (3).
- (5A) The Director must not renew a service contractor's or monitoring provider's licence unless the terms of the licence holder's service contracts or agreements to provide a basic monitoring service are satisfactory to the Director (whether those terms have remained the same since the licence was granted or last renewed or have been re-negotiated).
- (6) If an application under subsection (1) is refused, the Director shall, as soon as practicable after the decision, give the applicant written notice of, and the reasons for, the decision.

**72            Licences not to be transferred**

A licence under this Part cannot to be transferred.

**73            Display of repairer's licence**

A licensed repairer shall, at all times whilst installing, altering, adjusting, maintaining or repairing gaming equipment on licensed premises, display the licensed repairer's licence on his or her person in such way as to be visible to other persons unless the licence at any material time is in the possession of the Director.

Penalty:        \$5,000.

**74            Disclosure of influential or beneficial parties**

- (1) At the time of making an application for:
  - (a) a repairer's, service contractor's or monitoring provider's licence, the applicant; or

- (b) a renewal of a repairer's, service contractor's or monitoring provider's licence, the licensed repairer, licensed service contractor or licensed monitoring provider,

shall forward to or lodge with the Director an affidavit made under this section.

- (2) An applicant or holder of a licence who undergoes any change in circumstances in relation to information contained in the last affidavit forwarded or lodged under this section by the applicant or holder of the licence shall, not later than 7 days after the change, forward to or lodge with the Director another affidavit under this section.

Penalty: \$10,000 or imprisonment for 2 years.

- (3) An affidavit under this section shall be made by the applicant or holder of the licence or, where the applicant for or holder of the licence is a body corporate, by the principal executive officer of the body corporate or, if that officer does not have knowledge of the facts, by some other person who has knowledge of the facts and who is authorised by the body corporate to make the affidavit.
- (4) Subject to subsection (5), an affidavit under this section is to be in the form determined by the Director and shall disclose:
- (a) whether or not there is any person (other than, where the applicant or holder of the licence is a body corporate, the secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made:
- (i) in the case of the applicant or holder of the licence being a natural person – by that person; or
- (ii) in the case of the applicant or holder of the licence being a body corporate – by the body corporate or the secretary or an executive officer of the body corporate,
- in relation to the performance of the general functions that are, or are to be, permitted by the licence;
- (b) whether or not there is any person other than the applicant or holder of the licence who by any lease, agreement or arrangement may expect any benefit from the applicant or holder in relation to the performance of the general functions



that are, or are to be, permitted by the licence;

- (c) if there is any person able to influence as referred to in paragraph (a) or expect a benefit as referred to in paragraph (b):
    - (i) where any such person is a natural person, the person's full name, address and date of birth;
    - (ii) where any such person is a body corporate, the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and
    - (iii) full and correct particulars of the lease, agreement or arrangement; and
  - (d) in the case of the applicant or holder of the licence being a body corporate – the names of all persons who have a substantial holding (within the meaning of section 9 of the Corporations Act 2001) in the body corporate.
- (5) An affidavit under this section need not disclose:
- (a) anything about a contract, agreement or other arrangement entered into for the purposes of this Act or the Regulations and approved by the Director; or
  - (b) anything that is prescribed for the purposes of this subsection.

## **75 Investigation of holder of licence and associates**

- (1) At any time while a licence under this Part is in force, the Director may cause to be undertaken such investigations as the Director considers are necessary in order to be satisfied that the holder of the licence is a fit and proper person to be a holder of a licence under this Part.
- (2) The Director may require a person to whom an investigation under subsection (1) relates to submit such information or material as the Director considers is necessary.
- (3) A person shall comply with and not contravene a requirement of the Director given under subsection (2).

Penalty: \$10,000 or imprisonment for 2 years.

**76 Cessation or commencement of executive officer or secretary**

A licensed service contractor or licensed monitoring provider shall notify the Director in the form determined by the Director:

- (a) that a person has ceased to be the secretary or an executive officer of the body corporate;
- (b) that a person has started as the secretary or an executive officer of the body corporate; and
- (c) the full name, address and date of birth of a person referred to in paragraph (b),

not later than 7 days after ceasing or starting.

Penalty: \$10,000 or imprisonment for 2 years.

**77 Notification of employment and agreements**

- (1) In this section:

**employer** means a licensed service contractor or licensed monitoring provider.

- (2) An employer shall:

- (a) not later than 7 days after being granted a licence; and
- (b) each time an application for renewal of a licence is made,

notify the Director in the form determined by the Director of the name, and licence number under this Act, of each person employed by the employer as a licensed repairer at the time of the notification.

Penalty: \$5,000.

- (3) An employer shall, not later than 7 days:

- (a) after employing a person as a licensed repairer; or
- (b) after a person ceases to be employed by the employer as a licensed repairer,

notify the Director in the form determined by the Director of the name, and licence number under this Act, of the person together with the name, and licence number under this Act, of each person employed by the employer as a licensed repairer at the time of the notification.

Penalty: \$5,000.

(4) An employer shall:

- (a) not later than 7 days after being granted a licence; and
- (b) each time an application for renewal of a licence is made,

notify the Director in the form determined by the Director of the name, and licence number under this Act, of each person with whom the employer has a service contract at the time of the notification.

Penalty: \$5,000.

(5) An employer shall, not later than 7 days after making or terminating a service contract, notify the Director in the form determined by the Director of the name, and licence number under this Act, of the other party to the service contract together with the name and licence number under this Act, of each person with whom the employer has a service contract at the time of the notification.

Penalty: \$5,000.

(6) A licensee shall:

- (a) not later than 7 days after being granted a licence; and
- (b) each time an application for renewal of a licence is made,

notify the Director in the form determined by the Director of:

- (c) the name and licence number under this Act of each licensed machine manager employed under section 60(3) in respect of the licensed premises to which the licence relates at the time of the notification; and
- (d) the name of each person who is an applicant for a machine manager's licence, employed under section 60(4) in respect of the licensed premises to which the licence relates at the time of making the notification.

Penalty: \$5,000.

- (7) A licensee shall not later than 7 days after:
- (a) employing a licensed machine manager under section 60(3); or
  - (b) a person ceasing to be employed by the licensee under section 60(3) or 60(4),

notify the Director in the form determined by the Director of:

- (c) the name of the licensed machine manager or person and the licence number under this Act of the licensed machine manager;
- (d) the name and licence number under this Act, of each licensed machine manager employed under section 59(3) in respect of the licensed premises to which the licence relates at the time of the notification; and
- (e) the name of each person who is an applicant for a machine manager's licence employed under section 60(4) in respect of the licensed premises to which the licence relates at the time of the notification.

Penalty: \$5,000.

- (8) If it becomes known to an employer that a person employed by the employer as a licensed repairer is not a licensed repairer, the employer shall immediately terminate the employment of the person as a licensed repairer.

Penalty: \$10,000 or imprisonment for 2 years.

- (9) If it becomes known to the Director or a licensee that a person with whom the Director or licensee has made a service contract is not a licensed service contractor, the Director or licensee shall immediately terminate the service contract.

Penalty: \$10,000 or imprisonment for 2 years.

- (10) If it becomes known to a licensed service contractor that:
- (a) a person (other than the Director) with whom the service contractor has made a service contract is not a licensee; or
  - (b) a person to whom the licensed service contractor has subcontracted any of the licensed service contractor's obligations under a service contract is not a licensed service contractor or licensed repairer,

the licensed service contractor must immediately terminate the service contract or subcontract, as the case may be.

Penalty:        100 penalty units or imprisonment for 2 years.

- (11) If it becomes known to a licensee that:
- (a) a person employed by the licensee under section 60(3) is not a licensed machine manager; or
  - (b) the application of a person employed by the licensee under section 60(4) has been refused,

the licensee shall immediately terminate the employment of the person under section 59(3) or (4).

Penalty:        \$10,000 or imprisonment for 2 years.

- (12) Subsection (8), (9), (10) or (11) is sufficient authority to terminate the employment or service contract referred to in the subsection, notwithstanding any other Act or law.
- (13) No right of action arises against any person because of the termination.

## **78        Surrender of licence**

- (1) The holder of a licence under this Part may, at any time, by forwarding to or lodging with the Director notification in the form determined by the Director, and the licence under this Part, surrender the licence.
- (2) Notification under subsection (1) shall be signed or executed in the same way as that specified for an application made under section 62(1)(b).
- (3) The holder of a repairer's, service contractor's or monitoring provider's licence is not entitled to surrender the licence unless the holder has given the Director the following period of notice:
  - (a) for a repairer's or service contractor's licence – 30 days;
  - (b) for a monitoring provider's licence – 90 days.
- (4) The surrender of a licence under this Part takes effect when it is accepted by the Director or at a later time determined by the Director.

- (5) The Director may refuse to accept the surrender of a licence under this Part until the conditions specified by the Director for the surrender have been met.
- (6) If a service contractor's or monitoring provider's licence is being surrendered, the conditions specified under subsection (5) may include a condition that the holder of the licence has complied with all of its obligations under a service contract or an agreement to provide a basic monitoring service.
- (7) If a repairer's, service contractor's or monitoring provider's licence is being surrendered, as soon as practicable after forwarding to or lodging with the Director the licence and notification under subsection (1), the holder of the licence must dispose of all gaming equipment and restricted components in the holder's possession in the manner approved by the Director.
- (8) If a service contractor's or monitoring provider's licence is being surrendered the following apply:
  - (a) the obligations of the holder of the licence to a licensee under a service contract or an agreement to provide a basic monitoring service continue in force until the surrender takes effect unless the Director determines otherwise;
  - (b) the obligations of a licensee to the holder of the licence under a service contract or an agreement to provide a basic monitoring service cease on the day on which the licence and notification are forwarded to or lodged with the Director under subsection (1).

## **79 Cancellation or suspension of licence**

- (1) A ground for cancellation or suspension of a licence under this Part arises if:
  - (a) the holder of the licence:
    - (i) obtained the licence on false, erroneous or misleading information;
    - (ii) fails to comply with a condition to which the licence is subject; or
    - (iii) fails to forward or lodge an affidavit in accordance with section 74(2);

- (b) the holder of the licence or an associate of the holder:
    - (i) is convicted of a crime;
    - (ii) is convicted of an offence against this Act;
    - (iii) fails to discharge the holder's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
    - (iv) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under judicial management or administration;
    - (v) fails to comply with a written direction given to the holder or associate by the Commission or Director; or
    - (vi) fails, when required, to supply information or material to the Commission, the Director or an inspector, or supplies information or material that to the knowledge of the holder or associate is false, erroneous or misleading in a material particular; or
  - (c) the Director:
    - (i) considers that the holder of the licence or an associate of the holder is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a holder of a licence or to be an associate of the holder of a licence; or
    - (ii) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the decision under section 65 may have been that the licence be refused.
- (2) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the Director shall issue to the holder of the licence a written notice to show cause why action should not be taken with respect to the licence under this section.
- (3) The Director shall issue a copy of a notice issued under this section to any other person whom the Director considers has an interest in the licence.

- (4) A notice issued under this section shall set out the grounds giving rise to its issue and shall specify a date, being not earlier than 7 days after its issue, on or before which cause is required to be shown.
- (5) Subject to this section, a notice under this section shall be in such form and contain such matters as the Director thinks fit.
- (6) A person to whom a notice under this section is issued may give a written answer to the Director at any time not later than the date specified in the notice in that respect.
- (7) A person to whom a copy of a notice is issued under subsection (3) may make such submissions to the Director as the person thinks fit at any time not later than the date specified under subsection (4).
- (8) The Director shall consider answers given in reply to a notice to show cause and any submissions made under subsection (7) and, if the Director considers that:
  - (a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the Director shall not take any action or any further action in relation to the notice;
  - (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory but action to cancel or suspend the licence is not warranted, the Director may issue a letter of censure to the holder of the licence, censuring the holder of the licence in respect of any matter connected with or giving rise to the notice to show cause;
  - (c) answers given or submissions made in reply to or in respect of the notice are not satisfactory and further action is warranted or if no answers are given and no submissions are made, the Director may:
    - (i) by written notice give such directions to the holder of the licence as the Director considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice; or
    - (ii) cancel, or suspend for such period as the Director determines, the licence.
- (9) If a direction given by the Director under subsection (8)(c)(i) is not complied with within the time specified in the notice, the Director may cancel or suspend the licence.



- (10) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is not of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardised or the public interest may be adversely affected, the Director may by letter censure the holder of the licence in respect of any matter connected with or giving rise to the ground.
- (11) If the Director cancels or suspends a licence, the Director shall as soon as practicable give the applicant written notice of, and the reasons for, the cancellation or suspension.
- (12) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (11) or from the date specified in the notice.
- (13) On receipt of a notice of cancellation under subsection (12), the person to whom the notice is addressed shall deliver the licence to the Director not later than 14 days after receiving the notice.

Penalty: \$10,000.

- (14) If a service contractor's or monitoring provider's licence is cancelled, the Director may make the arrangements the Director considers necessary to ensure that a service that would have been provided by the holder of the licence continues to be provided (which may include the issue of an interim licence under section 82A).
- (15) As soon as practicable after the cancellation of a service contractor's or monitoring provider's licence, the Director must remove or make arrangements for the removal of all gaming equipment and restricted components in the possession of the holder of the licence.
- (16) The cancellation of a licence under this Part does not affect a liability incurred by the holder of the licence under this Act or the Regulations, or under a contract, agreement or other arrangement entered into by the holder of the licence for the purposes of this Act or the Regulations, before the licence was cancelled unless the Director determines otherwise.

## **80 Suspension of licences pending decision**

- (1) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under section 79(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the Director may suspend a licence under this Part until any action taken, or to be taken, under section 79 is finally determined.

- (2) Where the Director suspends a licence under subsection (1), the Director shall as soon as practicable give the holder of the licence written notice of, and the reasons for, the suspension.
- (3) The suspension of a licence under this section takes effect from when the notice referred to in subsection (2) is given to the holder of the licence or the suspension of the licence is made known to the holder of the licence (whichever is the first to happen).

#### **81            Effect of suspension of licence**

The suspension under section 79(8) or 80(1) of a licence under this Part has the same effect as the cancellation of the licence but without prejudice to:

- (a) any penalty or other liability incurred by the holder of the licence; or
- (b) the exercise of the powers of the Commission or the powers or authorities of the Director or an inspector.

#### **82            Provisional licences**

- (1) The Director may grant to an applicant for a licence under this Part a provisional licence if the Director considers that:
  - (a) a decision in respect of the application may not be made for some time;
  - (b) the conduct of gaming may be prejudiced or disadvantaged if the applicant is not granted a provisional licence; and
  - (c) the issue of the provisional licence will not prejudice or disadvantage gaming or the conduct of gaming.
- (2) The Director may impose on a provisional licence such conditions as the Director considers are necessary in the public interest.
- (3) Where the Director grants a provisional licence, the Director shall issue the licence in the form determined by the Director and endorse on the licence the conditions imposed under subsection (2).
- (4) A provisional licence remains in force until:
  - (a) the application for the licence under this Part referred to in subsection (1) is granted or refused;
  - (b) it is surrendered; or

- (c) it is cancelled.
- (5) The Director, at any time, may cancel a provisional licence granted under subsection (1).
- (6) No right of action arises against the Director or any other person because of a decision under subsection (5) in respect of the termination of employment or otherwise.
- (7) A provisional licence has the same effect as if it were a repairer's licence, service contractor's licence or machine manager's licence, as the case may be.

### **82A Interim licences**

- (1) The Director may, without an application, grant to a person an interim licence if the Director considers that it is necessary to ensure the continued effective operation of this Act for a short-term period.
- (2) An interim licence is for the term, and subject to the conditions, determined by the Director.
- (3) The holder of an interim licence may surrender the licence at any time.
- (4) The Director may cancel an interim licence at any time.
- (5) An interim licence has the same effect as if it were a repairer's licence, service contractor's licence, monitoring provider's licence or machine manager's licence, as the case requires.

## **Part 5 Supervision and management of gaming**

### **83 Installation and storage of gaming machines by licensee**

- (1) A licensee must not install a gaming machine provided under the gaming machine licence or other prescribed gaming equipment in an area other than a gaming machine area on the licensee's licensed premises.

Penalty: 500 penalty units or imprisonment for 6 months.

- (2) A licensee must not store a gaming machine provided under the gaming machine licence or other prescribed gaming equipment that is not installed in a gaming machine area on the licensee's licensed premises except in a room, and in a manner, approved by the Director.

Penalty: 500 penalty units or imprisonment for 6 months.

- (3) A licensee is authorised to store in accordance with subsection (2) gaming machines in excess of the number of gaming machines authorised for use under the gaming machine licence.

- (4) A licensee must not install on the licensee's licensed premises a gaming machine that is being stored by the licensee if, as a result, the number of gaming machines installed on the premises would exceed the number of gaming machines authorised for use under the gaming machine licence.

Penalty: 500 penalty units or imprisonment for 6 months.

**84 Gaming machines not to be played if not installed in gaming machine area**

- (1) Subject to subsection (2), a person shall not play or allow another person to play a gaming machine provided under the gaming machine licence to a licensee that is not installed in a gaming machine area.

Penalty: \$50,000 or imprisonment for 5 years.

- (2) Subsection (1) does not apply to a licensed repairer who plays a gaming machine in the course of altering, adjusting, maintaining, repairing or testing the gaming machine.

- (3) Winnings that become payable because of playing a gaming machine under subsection (2) remain the property of the licensee and are not payable to any person.

**85 Gaming equipment not to be an annoyance, &c.**

- (1) A licensee shall not locate, or allow to be located, gaming equipment on the licensee's licensed premises in such a way as to be an annoyance due to the location of the gaming equipment, the noise generated by the operation of the equipment or for any other reason.

Penalty: \$5,000.

(2) A listed person or licensee shall not allow gaming equipment to convey or exhibit:

- (a) a false, misleading, rude or offensive message; or
- (b) excessive or unnecessary advertising.

Penalty: \$5,000.

(3) Except as may be provided by the game of a gaming machine or an arrangement or system approved under section 134, a person shall not:

- (a) do or omit to do anything on licensed premises that unfairly or unreasonably entices a person to play a particular gaming machine in preference to others; or
- (b) conduct or allow to be conducted any promotional activity that entices a person to play or rewards a person for playing gaming machines unless the rewards or prizes provided by the activity are not related to a particular gaming machine a person must play in order to be entitled to the rewards or prizes.

Penalty: \$10,000 or imprisonment for 2 years.

(4) Where, in the opinion of an inspector, a contravention of this section is being or has been committed, the Director may, by written notice, direct a listed person, licensee or person:

- (a) to do or cease doing anything that constitutes the contravention; or
- (b) not to again do or omit to do anything that constituted the contravention.

(5) A listed person, licensee or person shall not contravene or fail to comply with a direction given under subsection (4).

Penalty: \$10,000 or imprisonment for 2 years.

## **87 Maintenance of facilities, &c.**

(1) A licensee shall ensure that:

- (a) the operation of gaming machines on the licensee's licensed premises is conducted in such a way as, in the opinion of the Director, is proper and competent;

- (b) anything forming part of a gaming machine that is visible without opening the machine is maintained in good order and is not defaced or altered in any way;
- (c) all facilities and amenities on the licensee's licensed premises that are related to gaming are maintained in such condition as will provide maximum safety and comfort for persons on the premises; and
- (d) all installations, equipment and procedures for security and safety purposes are used, operated and applied for the preservation and maintenance of those purposes.

Penalty: \$10,000 or imprisonment for 2 years.

(2) A licensee shall not:

- (a) employ or allow; or
- (b) cause or allow another person to employ or allow,

a barker or shill to entice a person to play gaming machines on the licensee's licensed premises.

Penalty: \$5,000.

## **88 Hours of gaming**

A licensee shall not conduct gaming, or allow gaming to be conducted, in a part of the licensee's licensed premises:

- (a) when, under the liquor licence relating to the premises, liquor is not permitted to be sold in that part of the premises;
- (b) when the licensee or an employee of the licensee is not in that part of the premises to supervise gaming; or
- (c) during a period prescribed for the purposes of this section.

Penalty: \$10,000 or imprisonment for 2 years.

## **89 Rules ancillary to gaming**

- (1) The Director may, in writing, make rules relating to matters that are ancillary to gaming conducted on licensed premises.
- (2) A licensee, with the approval in writing of the Director, may, in respect of the licensee's licensed premises:
  - (a) amend, add to or repeal; or

- (b) substitute a rule or other rules for, the rules made under subsection (1).

**90 Rules ancillary to gaming to be available and enforced**

A licensee shall ensure, when gaming is being conducted on the licensee's licensed premises, that:

- (a) the rules ancillary to gaming that are, at that time, the rules for the licensed premises, are available for inspection at the licensed premises;
- (b) where required by the rules, notices relating to the rules are prominently displayed; and
- (c) the rules are enforced.

Penalty: \$5,000.

**91 Licensees not to extend credit**

A licensee shall not make a loan or extend credit in any form to a person on the licensee's licensed premises.

Penalty: \$10,000 or imprisonment for 2 years.

**92 Gaming tokens**

- (1) A licensee, in conducting gaming on the licensee's licensed premises, shall only use gaming tokens.
- (2) A licensee shall cause all transactions, in respect of the sale or redemption of gaming tokens on the licensee's licensed premises, to be carried out in such a way as ensures the integrity of the transactions.

Penalty: \$10,000 or imprisonment for 2 years.

**94 Payments in connection with gaming**

- (1) A licensee shall make a payment in connection with:
  - (a) the payment of winnings or gaming machine credits (other than payments made by a gaming machine); or
  - (b) the redemption of gaming tokens,

with Australian currency unless the payment:

- (c) is required to be made in another way:
  - (i) that is prescribed; or
  - (ii) in accordance with the rules ancillary to gaming for the licensed premises; or
- (d) is to be made under subsection (2).

Penalty: \$10,000 or imprisonment for 2 years.

- (2) A licensee may, if requested by a person entitled to a payment referred to in subsection (1)(other than a payment to which subsection (1)(c) applies) and if the licensee thinks fit to do so, make the payment by:
  - (a) gaming tokens;
  - (b) a cheque;
  - (c) a combination of Australian currency, gaming tokens and a cheque, or
  - (d) electronic transfer.

## **95 Entitlement of players**

- (1) A licensee shall ensure that a person who plays a gaming machine on the licensee's licensed premises is paid the amount to which the person is entitled.

Penalty: 500 penalty units.

- (2) A licensee must ensure that a gaming machine on the licensee's licensed premises returns to players not less than the prescribed minimum percentage (if any) of bets made by players on the gaming machine.

Penalty: 500 penalty units.

## **96 Malfunction of gaming machines**

- (1) A machine manager shall refuse:
  - (a) to make payment; or
  - (b) to allow payment to be made,



to a person in respect of a bet made, or gaming machine credits accumulated, on a gaming machine installed on licensed premises in respect of which he or she is machine manager, where the machine manager is satisfied that the gaming machine failed to function in the way in which it was designed and programmed to function.

- (2) Subsection (1) applies irrespective of the reason for the failure of the gaming machine to function in the way in which it was designed and programmed to function.
- (3) A machine manager who refuses to make or allow payment under subsection (1) shall:
  - (a) not allow, other than for testing purposes, the gaming machine to be played until it is functioning in the way in which it was designed and programmed to function;
  - (b) not later than the close of business on the following working day, forward to the Director a report in the form determined by the Director in respect of the refusal; and
  - (c) give the licensee a copy of the report referred to in paragraph (b).

Penalty: \$10,000 or imprisonment for 2 years.

- (4) A licensee:
  - (a) may, on review of the copy of the report referred to in subsection (3); or
  - (b) shall, if so directed by the Director,

overrule a refusal referred to in subsection (1) and make the payment that has been refused.

Penalty: \$10,000 or imprisonment for 2 years.

- (5) Nothing in this section operates so as to prejudice or affect any other right or remedy of any person.

## **97 Defective gaming machines not allowed**

- (1) In this section, **licensee**, in respect of licensed premises, includes:
  - (a) a machine manager of the licensed premises;
  - (b) if the licensee is a body corporate, the secretary or an executive officer of the body corporate; and

- (c) a person employed by the licensee who may be required by the licensee to:
- (i) supervise gaming;
  - (ii) attend to gaming machines;
  - (iii) sell or redeem gaming tokens; or
  - (iv) carry out centralised credit transactions,
- on the licensed premises.

- (2) A licensee shall not allow, other than for testing purposes, a gaming machine:
- (a) that is installed on the licensed premises; and
  - (b) that does not function in the way in which it was designed and programmed to function,

to be played until it is functioning in the way in which it was designed and programmed to function.

Penalty: \$10,000 or imprisonment for 2 years.

- (3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the defendant:
- (a) had taken all reasonable precautions to ensure that the gaming machine was functioning in the way in which it was designed and programmed to function; and
  - (b) at the time of the alleged offence, did not know, and ought not to have known, that the gaming machine was not functioning in the way in which it was designed and programmed to function.

## **98 Security of keys, &c.**

- (1) A licensee shall ensure that all keys and other devices related to the security of gaming equipment on the licensee's licensed premises are kept, stored, secured, possessed and used in accordance with the written directions of the Director.
- (2) A person shall not possess or use a key or other device referred to in subsection (1) unless the possession or use is permitted by, and is in accordance with, the written directions of the Director.

Penalty: \$10,000 or imprisonment for 2 years.

**99 Certain persons only to have access etc. to gaming machines**

A person shall not, in relation to a gaming machine on licensed premises:

- (a) open the gaming machine;
- (b) check gaming tokens contained inside the gaming machine;
- (c) remove gaming tokens from the cabinet or drop box of the gaming machine; or
- (d) place gaming tokens into the gaming machine (other than for the purpose of playing a game on the gaming machine),

unless the person is:

- (e) the licensee of the licensed premises;
- (f) where the licensee is a body corporate, the secretary or an executive officer of the body corporate in the genuine execution of his or her duties as secretary or executive officer;
- (g) a machine manager in respect of the licensed premises;
- (h) an employee of the licensee who is assisting a machine manager in carrying out money clearances while the employee is in the presence of the machine manager;
- (j) a licensed repairer in the performance of duties as a licensed repairer;
- (k) performing duties under a contract approved under section 100(1);
- (m) an inspector in the exercise or performance of the inspector's powers and functions under this Act; or
- (n) any other person approved by the Director under this Act.

Penalty: \$10,000 or imprisonment for 2 years.

**100 Contracts for certain services to be approved**

- (1) Subject to subsection (2), a person shall not, without the approval of the Director, enter into an agreement for the provision of a service relating to:
  - (a) the sale and redemption of gaming tokens on the licensee's licensed premises;

- (b) the supervision of gaming on licensed premises;
- (c) attending to gaming machines or carrying out centralised credit transactions on licensed premises;
- (d) carrying out on licensed premises:
  - (i) money clearances;
  - (ii) any function resulting from money clearances; or
  - (iii) any function required to be carried out under section 141(2) or 142(2);
- (e) keeping and maintaining accounts under section 143;
- (f) making monthly gaming machine reconciliation reports under section 144; or
- (g) any other function prescribed for the purposes of this section.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) Subsection (1) does not apply to the employment of a natural person by a licensee to carry out on the licensee's licensed premises an act referred to in that subsection.

### **101 Licensees to keep records of certain employees**

- (1) A licensee shall, in respect of each of the licensee's licensed premises, keep and, at all times, accurately maintain a record of the full name, address and date of birth of all persons employed by the licensee to carry out on the licensed premises an act referred to in section 100(1).
- (2) A licensee shall, in respect of each of the licensee's licensed premises, lodge with the Director, on or before the day prescribed of each month, a report in the form determined by the Director, containing details of the full name, address and date of birth of all persons who performed an act referred to in section 100 at any time during the preceding month on the licensed premises.

Penalty: \$10,000 or imprisonment for 2 years.

**102 Notification of employment or cessation of employment of machine manager**

A licensee shall, not later than one working day after a person commences employment, or ceased to be employed, as a machine manager, notify the Director of that fact in the form determined by the Director.

Penalty: \$10,000 or imprisonment for 2 years.

**103 Persons under 18 not to be employed**

A licensee shall not employ a person who has not attained the age of 18 years in any capacity in relation to the operation of gaming machines.

Penalty: \$15,000.

**104 Persons under 18 not to play gaming machines**

A person who has not attained the age of 18 years shall not play a gaming machine on licensed premises.

Penalty: \$5,000.

**105 Persons under 18 not to be allowed to game**

A person shall not allow a person who has not attained the age of 18 years to play a gaming machine on licensed premises.

Penalty: \$15,000.

**106 Misrepresentation of age**

A person who has not attained the age of 18 years and who, for the purpose of playing a gaming machine, misrepresents the age of the person:

- (a) by spoken statements made by the person or another person;
- (b) by presenting a form of written identification which purports to relate to the person presenting it but which in fact is fictitious or relates to some other person; or
- (c) by presenting a form of written identification which is false in a material particular,

is guilty of an offence.

Penalty: \$5,000.

**107 Wrongful dealing with evidence of age**

- (1) A person shall not knowingly give a document that is evidence of age of the person specified in the document to another person, with intent that the document be used as evidence of age for the purposes of this Act of a person not specified in the document.

Penalty: \$5,000.

- (2) A person shall not wilfully or negligently deface or interfere with a document that is evidence of age of the person or another person.

Penalty: \$5,000.

**108 Seizure of form wrongly used as evidence of age**

- (1) Where a contravention of section 106 consists of presenting of a form referred to in that section the person to whom the form is presented shall seize and confiscate the form and give it to an inspector or a member of the Police Force.

Penalty: \$5,000.

- (2) A person does not commit an offence against subsection (1) if the person is not aware of the falsity of the representation as to age made by presenting the form.

**109 Ascertainment of age**

- (1) An authorised person may, on licensed premises, require a person whom the authorised person suspects on reasonable grounds not to have attained the age of 18 years and to be contravening a provision of this Act:

(a) to state all relevant particulars concerning the person's age;  
and

(b) to produce evidence of the person's age.

- (2) An authorised person shall prohibit a person who does not comply with a requirement made under subsection (1) from playing gaming machines on the licensed premises.

- (3) In this section, **authorised person**, in relation to licensed premises, means:

(a) the licensee of the licensed premises;

(b) a machine manager of the licensed premises;

(c) an employee of the licensee of the licensed premises;

- (d) an inspector; or
- (e) a member of the Police Force.

**110 Seizure of material associated with representation of age**

If an inspector or a member of the Police Force reasonably believes or suspects that a person:

- (a) has presented a form in contravention of section 106;
- (b) is in possession of a document given to the person in contravention of section 107(1); or
- (c) is in possession of a document defaced or interfered with in contravention of section 107(2),

the inspector or member may seize and confiscate the form or document.

**111 Defence to charge if age material**

- (1) If the age of a person is material to a charge of an offence against this Act, it is a defence to prove that, at the time of the offence, the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender):
  - (a) honestly and reasonably believed that the person whose age is material to the offence had attained the age of 18 years; or
  - (b) had sighted acceptable evidence of age of the person whose age is material to the offence that indicated the person had attained the age of 18 years,

and the operation of section 32 of the Criminal Code is excluded.

- (2) Evidence that the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender) did not request the person whose age is material to the offence to produce acceptable evidence of age is evidence that any belief that the person had attained the age of 18 years was not reasonable.

**112 Licensees to prohibit certain persons from gaming**

Where there are reasonable grounds for a licensee to believe that the peace and happiness of a person's family are endangered due to excessive playing of gaming machines by the person, the licensee shall prohibit the person from playing gaming machines on

the licensee's licensed premises for one month from the date of prohibition.

### **113 Removal of certain persons**

- (1) A licensee may cause a person to be removed from, or refuse to allow a person to enter, the licensee's licensed premises if the person:
  - (a) breaches the rules ancillary to gaming for the licensed premises;
  - (b) damages or physically abuses a gaming machine;
  - (c) behaves in a way likely to cause offence to other persons; or
  - (d) is suspected on reasonable grounds of being on the premises for the purpose of committing an offence or aiding another person to commit an offence against this Act.
- (2) A licensee shall cause to be removed from the licensee's licensed premises a person who is prohibited under section 109(2) or 112 from playing gaming machines on the premises if the person:
  - (a) plays a gaming machine; or
  - (b) induces another person to play a gaming machine on the person's behalf.

Penalty: \$15,000.

- (3) For the purposes of subsection (1) or (2), a licensee or a person acting for a licensee may use such force and assistance as is necessary and reasonable in removing a person from, or preventing a person from entering, the licensed premises.

### **114 Obstruction to removal from licensed premises**

A person whose removal from licensed premises is sought under section 113(1) or (2) shall not:

- (a) refuse to leave the premises; or
- (b) resist a person seeking his or her removal from the premises.

Penalty: \$5,000.



**115 Obstruction generally**

A person shall not obstruct or hinder a licensee, machine manager or any other employee of a licensee in the exercise of a power or performance of a function under this Act.

Penalty: \$5,000.

**Part 6 Control of gaming machines****116 Recognised manufacturers or suppliers of gaming machines**

- (1) The Director may approve a person to be a recognised manufacturer or supplier of gaming machines for the purposes of this Act.
- (2) The Director must not approve a person under subsection (1) if the Director would have been required under section 119 to remove the person from the roll under subsection (4) had the person already been on that roll.
- (3) An approval under subsection (1) is subject to:
  - (a) the conditions (if any) that are prescribed; and
  - (b) the conditions the Director may impose in the public interest or for the proper conduct of gaming.
- (4) The Director must maintain a roll of recognised manufacturers or suppliers of gaming machines.

**117 Recognised suppliers of restricted components**

- (1) The Director may approve a person to be a recognised supplier of restricted components for the purposes of this Act.
- (2) The Director must not approve a person under subsection (1) if the Director would have been required under section 119 to remove the person from the roll under subsection (4) had the person already been on that roll.
- (3) An approval under subsection (1) is subject to:
  - (a) the conditions (if any) that are prescribed; and
  - (b) the conditions the Director may impose in the public interest or for the proper conduct of gaming.
- (4) The Director must maintain a roll of recognised suppliers of restricted components.

**118 Investigation of suitability of listed persons**

- (1) At any time the Director may cause to be undertaken such investigations as the Director considers are necessary in order to satisfy the Commission that a listed person or any associate of a listed person is a fit and proper person to be a listed person or an associate of a listed person.
- (2) The Director may require a person to whom investigations under subsection (1) relate to submit such information or material as the Director considers is necessary.
- (3) The person shall not contravene or fail to comply with a requirement of the Director given under subsection (2).

Penalty: \$10,000 or imprisonment for 2 years.

**119 Removal of names of persons from roll**

- (1) The Director shall remove the name of a listed person from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components:
  - (a) if the listed person or an associate of the listed person:
    - (i) is convicted of a crime;
    - (ii) is convicted of an offence against this Act;
    - (iii) fails to discharge the listed person's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
    - (iv) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under judicial management or administration;
    - (v) fails or refuses to comply with a written direction given by the Commission or the Director and the Commission is of the opinion that the failure or refusals jeopardise the integrity of gaming or the conduct of gaming or adversely affects the public interest; or
    - (vi) fails, when required, to supply information or material to the Commission, the Director or an inspector, or supplies information or material that to the knowledge of the listed person or associate is false, erroneous or misleading in

a material particular; or

- (b) if at any time the Commission or the Director considers that the listed person or an associate of the listed person is not a fit and proper person to continue to be a listed person or an associate of the listed person.
- (2) Where the Director removes the name of a person from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components, the Director shall as soon as practicable give the person written notice of, and the reasons for, the removal.

**120 Manufacture, sale, supply, obtaining or possession of gaming machines**

- (1) A person shall not manufacture, sell, supply, obtain or be in possession of:
- (a) a gaming machine;
  - (b) a linked jackpot arrangement; or
  - (c) a device capable of being represented as being a gaming machine or linked jackpot arrangement,

except under and in accordance with the authority of a licence or other authorisation under this Act.

Penalty: \$50,000 or imprisonment for 5 years.

- (2) A person shall not manufacture, sell, supply, obtain or be in possession of a restricted component except under and in accordance with the authority of a licence or other authorisation under this Act.

Penalty: \$25,000 or imprisonment for 2 years.

- (3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that:
- (a) the manufacturing, selling, supplying, obtaining or possession of a restricted component was not related to the manufacture, assembly, installation, alteration, operation, use, adjustment, maintenance or repair of gaming equipment; and
  - (b) the restricted component was not intended to be used to interfere with the normal operation of gaming equipment.

- (3A) A licensee is authorised to enter into an arrangement with a listed person, another licensee or a person approved by the Director for the supply to the licensee of gaming equipment of a type specified in subsection (1).
- (4) Notwithstanding any other Act or law, the possession of anything referred to in subsection (1) or (2) in accordance with a licence or other authorisation under this Act is lawful.
- (5) A licence or other authorisation under this Act is:
- (a) subject to this Act; and
  - (b) taken to extend to a person in the genuine employ of the holder of the licence or authorisation to such extent as is necessary for the employee to carry out the duties of the employee on behalf of the holder.
- (6) For the purposes of this section and sections 121 to 127, ***gaming machine*** includes any incomplete device that was a gaming machine or that is, or was, intended to be made into a gaming machine and to which there is affixed an identification plate with the manufacturer's serial number displayed on the plate.

**121 Possession etc. of gaming machines and restricted components by recognised manufacturers or suppliers of gaming machines**

- (1) A recognised manufacturer or supplier of gaming machines is authorised to:
- (a) manufacture, obtain and be in possession of gaming machines, linked jackpot arrangements and restricted components;
  - (b) sell or supply, on written order:
    - (i) gaming machines and linked jackpot arrangements to the Director, a licensee, a person approved by the Director or a recognised manufacturer or supplier of gaming machines; or
    - (ii) restricted components to a person authorised under this Act to obtain and be in possession of the restricted components; or
  - (c) sell or supply, on written order, gaming machines, linked jackpot arrangements or restricted components to a person in a State or another Territory of the Commonwealth or a country where possession of such gaming machines, linked jackpot

arrangements or restricted components by the person is lawful.

- (2) A recognised manufacturer or supplier of gaming machines shall not use premises for the manufacture, assembly, storage or handling of gaming machines, linked jackpot arrangements or restricted components unless the premises are approved by the Director.

Penalty: \$10,000 or imprisonment for 2 years.

- (3) A recognised manufacturer or supplier of gaming machines shall not manufacture, obtain or be in possession of gaming machines or restricted components unless it is for the purpose of:

- (a) the submission for evaluation by the Director of a particular device;
- (b) an action authorised under subsection (1)(b) or (c);
- (c) conducting genuine testing or development work; or
- (d) conducting, at premises approved by the Director, a genuine training course for licensed repairers or applicants for a repairer's licence on the installation, alteration, adjustment, maintenance or repair of gaming equipment.

Penalty: \$50,000 or imprisonment for 5 years.

- (4) A recognised manufacturer or supplier of gaming machines shall, not later than one day after the manufacture, assembly, disassembly or destruction of a gaming machine, advise the Director in the form determined by the Director of the manufacturer's serial number of the gaming machine.

Penalty: \$10,000 or imprisonment for 2 years.

#### **121A Sale of gaming machines and gaming equipment by licensees**

A licensee is authorised to sell gaming machines and gaming equipment in accordance with the procedures and conditions specified in Regulations.

#### **122 Possession, &c., of restricted components by recognised suppliers of restricted components**

- (1) A recognised supplier of restricted components is authorised to:
- (a) manufacture, obtain and be in possession of restricted components;

- (b) sell or supply, on written order, restricted components to a person authorised under this Act to obtain and be in possession of the restricted components; or
  - (c) sell or supply, on written order, restricted components to a person in a State or another Territory of the Commonwealth or a country where possession of such restricted components by the person is lawful.
- (2) A recognised supplier of restricted components shall not manufacture, obtain or be in possession of a restricted component unless it is for the purpose of:
- (a) the submission for evaluation by the Director of a particular device;
  - (b) an action authorised under subsection (1)(b) or (c);
  - (c) conducting genuine testing or development work; or
  - (d) conducting, at premises approved by the Director, a genuine training course for licensed repairers or applicants for repairer's licences on the use of restricted components.

Penalty: \$25,000 or imprisonment for 2 years.

**123 Possession etc. of restricted components by licensed repairers**

A licensed repairer is authorised to:

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed repairer;
- (b) supply restricted components to a licensed repairer employed by him or her as a licensed repairer;
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and
- (d) be in possession of a gaming machine or linked jackpot arrangement only to such extent as is necessary:
  - (i) with the approval of the Director, to remove, repair and reinstate a gaming machine or linked jackpot arrangement provided to a licensee, subject to an approval of the Director for such removal, repair and reinstatement;

- (ii) to install, remove and consign the gaming machine or linked jackpot arrangement in order to fulfil a written order of the Director; or
- (iii) to fulfil a written order of a licensee.

**124 Possession, &c., of restricted components by licensed service contractors**

A licensed service contractor is authorised to:

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed service contractor;
- (b) supply restricted components to a licensed repairer employed by the licensed service contractor as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components.

**124A Possession etc. of gaming equipment by licensed monitoring provider**

A licensed monitoring provider is authorised to:

- (a) obtain and be in possession of gaming equipment to the extent necessary to do so as a licensed monitoring provider;
- (b) supply gaming equipment to a licensed repairer employed by the licensed monitoring provider as a licensed repairer; and
- (c) sell or supply, on written order, gaming equipment to another person authorised under this Act to obtain and be in possession of the equipment.

**125 Possession etc. of gaming machines and restricted components by licensees**

- (1) A licensee is authorised to:
  - (a) be in possession of gaming machines and linked jackpot arrangements, on the licensee's licensed premises, that are provided under the gaming machine licence to the licensee;
  - (b) obtain and be in possession of restricted components, on the licensee's licensed premises, to such extent as is necessary for the efficient conduct of gaming on the licensed premises;

- (c) supply restricted components to:
  - (i) a licensed service contractor with whom the licensee has a service contract or a licensed monitoring provider with whom the licensee has an agreement to provide a basic monitoring service;
  - (ii) a person authorised under section 126(1) to have the restricted components; or
  - (iii) another licensee.
- (2) A licensee shall not, on the licensee's licensed premises, be in possession of, or allow a person to play:
  - (a) a gaming machine that is not provided under the gaming machine licence to the licensee for gaming on the licensed premises; or
  - (b) a gaming machine that is not in accordance with the game, gaming token denomination or betting unit of the gaming machine as provided under the gaming machine licence or, if the gaming machine has been altered under section 40A, the game, gaming token denomination or betting unit as last altered under that subsection.

Penalty: \$50,000 or imprisonment for 5 years.

- (3) A person whose gaming machine licence is suspended under section 48, 49(9) or 50 is authorised to be in possession of gaming machines provided under the gaming machine licence to the person and restricted components during the period of suspension.
- (4) A licensee must not purchase a gaming machine unless:
  - (a) the gaming machine is of a type approved by the Director; and
  - (b) the particular purchase is approved by the Director.

Penalty: 2 500 penalty units.

## **126 Possession etc. of gaming machines etc. by other persons**

- (1) A person who carries out an installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of section 58(3), is authorised to obtain and be in possession of restricted components to such extent as is necessary to carry out the installation, alteration, adjustment, maintenance or repair.



- (2) Where a person is authorised to manufacture, sell, supply, obtain or be in possession of gaming machines, linked jackpot arrangements or restricted components, a carrier hired by that person is authorised to have possession of the gaming machines, linked jackpot arrangements or restricted components to such extent as is necessary for the purpose of transporting it.
- (3) A person conducting a genuine training course relating to the conduct of gaming who is not a listed person is authorised to be in possession of gaming machines, linked jackpot arrangements and restricted components subject to:
  - (a) the gaming machines, linked jackpot arrangements and restricted components being provided by the Director or being provided with the approval of the Director; and
  - (b) compliance with all conditions (including the payment of fees) as may be imposed by the Director.
- (4) The Director or a member of the Police Force is authorised to obtain and be in possession of gaming machines, linked jackpot arrangements, restricted components and devices capable of being represented as being gaming machines or linked jackpot arrangements obtained by them in the course of their duties and to do such acts with those things as may be necessary for the exercise or performance of their powers and functions under this Act.
- (5) A person, authorised by the Director, may manufacture, obtain, be in possession of or use (other than for gaming or the conduct of gaming) a gaming machine, linked jackpot arrangement, restricted component or device capable of being represented as being a gaming machine or linked jackpot arrangement.

## **127 Consignment or movement of gaming machines**

- (1) A recognised manufacturer or supplier of gaming machines shall advise the Director, in the form determined by the Director, before gaming machines are moved by, or on behalf of, the recognised manufacturer or supplier of gaming machines:
  - (a) to or from premises approved under section 121(2); or
  - (b) to a place in the Territory from outside the Territory.
- (2) An advice under subsection (1) shall include:
  - (a) the number of gaming machines;

- (b) the gaming machine type, game and manufacturer's serial number of each of the gaming machines;
- (c) the origin and destination of the gaming machines;
- (d) the intended dates of transport;
- (e) the way the gaming machines are to be transported;
- (f) the name of the carrier; and
- (g) such other particulars as are specified in the form.

Penalty: \$10,000 or imprisonment for 2 years.

### **128 Purchase of gaming equipment etc.**

Subject to this Act, the Director is authorised to:

- (d) provide:
  - (i) gaming machines, linked jackpot arrangements and linked jackpot equipment to a licensee; and
  - (ii) gaming machines, linked jackpot arrangements and restricted components to a person conducting a genuine training course relating to the conduct of gaming;
- (da) sell gaming machines to approved finance providers;
- (e) sell restricted components to a person authorised under this Act to obtain and be in possession of the restricted components;
- (f) sell gaming equipment (other than linked jackpot arrangements) and ancillary or related items;
- (g) contract for the service and maintenance of gaming equipment and ancillary or related items that are the property of the Territory; and
- (h) for the purpose of disposing of devices, sell or lease gaming machines and linked jackpot arrangements to a person authorised to obtain and be in possession of gaming machines and linked jackpot arrangements.

### **129 Financing of gaming machines**

- (1) The Director may approve a financial institution to be a finance provider for the purposes of this Act.

(2) An approved finance provider is authorised to own gaming machines but only for the purpose of financing the purchase, lease or rent of the gaming machines by licensees.

(3) A licensee must not enter into an arrangement with another person to finance the purchase, lease or rent of gaming machines by the licensee unless the other person is an approved finance provider and the Director has approved the terms of the arrangement.

Penalty: 500 penalty units.

(3A) A licensee must not vary the terms of an arrangement referred to in subsection (3) without the approval of the Director.

Penalty: 500 penalty units.

(3B) An application for an approval referred to in subsection (3) or (3A) is to be in a form approved by the Director and is to include the information required by the Director.

(4) An approved finance provider must not enter into an arrangement with another person to finance the purchase, lease or rent of gaming machines by the other person unless that other person is a licensee.

Penalty: 500 penalty units.

(5) A licensee must provide the Director with details of any security or other encumbrance taken by an approved finance provider over gaming machines in the licensee's possession, including the identification and serial numbers of the gaming machines.

Penalty: 500 penalty units.

(6) Where an approved finance provider holds a security or other encumbrance over gaming machines in a licensee's possession, despite the terms of the security or encumbrance, the finance provider must not take possession of the gaming machines under the security or encumbrance without the approval of the Director.

Penalty: 500 penalty units.

(7) The approval of the Director under subsection (6) may be given subject to conditions.

### **131 Evaluation of gaming equipment and games**

(1) Without limiting section 129 or 130, the Director may, on payment of the prescribed fee, accept gaming equipment types and games for evaluation.

- (2) Where the Director accepts a gaming equipment type or game for evaluation under subsection (1), the Director shall, after evaluation of the gaming equipment type or game, approve the gaming equipment type or game or reject it.
- (3) Where, under subsection (1), the Director accepts for evaluation a gaming equipment type or game, the Director may require the person who submitted the gaming equipment type or game to provide such additional information or material as the Director considers is necessary in order to make the evaluation.
- (4) Where a requirement under subsection (3) is not complied with to the satisfaction of the Director, the Director may reject the gaming equipment type or game without evaluation.
- (5) Where the Director accepts a gaming equipment type or game for evaluation, the Director must:
  - (a) evaluate it; or
  - (b) refer it to an approved evaluator for evaluation.
- (6) If the Director evaluates the gaming equipment type or game, the Director must approve it or reject it.
- (7) If an approved evaluator evaluates the gaming equipment type or game, the Director must:
  - (a) accept the evaluator's decision to accept or reject it; or
  - (b) refuse to accept the evaluator's decision and substitute the Director's own decision to reject or accept it.
- (8) The Director must notify the person who submitted a gaming equipment type or game for evaluation of the Director's decision under this section.
- (9) The costs and expenses incurred by the Director in obtaining an evaluation from an approved evaluator for the purposes of this section are a debt due to the Territory by the person who submitted the gaming equipment type or game for evaluation.
- (10) The Director may approve a person to be an evaluator for the purposes of this Act.
- (11) An approval under subsection (10) is subject to:
  - (a) the conditions (if any ) that are prescribed; and

- (b) the conditions the Director may impose in the public interest or for the proper conduct of gaming.

### **132 Withdrawal of approval of gaming machine types and games**

- (1) If the Director, under section 172(2), withdraws the approval of an approved gaming machine type or game, the Director shall as soon as practicable give written notice of, and reasons for the withdrawal to:
  - (a) the person who submitted the gaming machine type or game under section 129 or 131; and
  - (b) licensees provided with a gaming machine of that gaming machine type or game.
- (2) A licensee who permits gaming on a gaming machine of a gaming machine type or game specified in a notice given to the licensee under subsection (1) is guilty of an offence against this Act.

Penalty: \$10,000 or imprisonment for 2 years.

### **133 Gaming machines supplied to be in accordance with approval**

A recognised manufacturer or supplier of gaming machines shall not, without the approval of the Director, supply a gaming machine which is in any material particular different from:

- (a) the gaming machine type or game approved by the Director;  
or
- (b) the gaming machine type or game specified in the order placed by a licensee.

Penalty: \$10,000 or imprisonment for 2 years.

### **134 Linked jackpots**

- (1) A licensee on the licensee's licensed premises shall not, without the written approval of the Director:
  - (a) install or operate or cause or allow to be installed or operated a single site linked jackpot arrangement;
  - (b) install or operate or cause or allow to be installed or operated or participate in the operation of, a multiple site linked jackpot arrangement; or
  - (c) install or operate or cause or allow to be installed or operated or participate in the operation of any other electronically

connected gaming machine system, under which the return to a player for a result obtained on a gaming machine or by electronically connected equipment is different to the return provided for that result by the game as approved by the Director.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) An application for an approval under subsection (1) shall:
- (a) be made by a licensee in the form determined by the Director;
  - (b) contain or be accompanied by such other matters and particulars as determined by the Director;
  - (c) be accompanied by the prescribed fee, if any; and
  - (d) be forwarded to or lodged with the Director.
- (3) An approval under subsection (1) shall be given an identifying approval number.
- (4) A licensee shall not cease to operate or participate in the operation of an arrangement or system approved under subsection (1) without the written approval of the Director.

Penalty: \$10,000 or imprisonment for 2 years.

- (5) A licensee operating or participating in the operation of an arrangement or system approved under subsection (1) who fails to comply with:
- (a) a condition to which the approval is subject; or
  - (b) a requirement prescribed in relation to the conduct or operation of the arrangement or system approved under subsection (1),

is guilty of an offence.

Penalty: \$25,000 or imprisonment for 2 years.

- (6) The Director may approve arrangements as the Director considers appropriate in order for the Director or another person to:
- (a) collect moneys from licensees participating in the operation of linked jackpot arrangements; and
  - (b) make payments to persons entitled to the amount, or part of the amount, recorded by the linked jackpot arrangement.

- (7) A licensee who fails to comply with an arrangement approved under subsection (6) is guilty of an offence.
- Penalty: \$25,000 or imprisonment for 2 years.
- (9) The Director may do any of the following in respect of linked jackpot equipment provided under a gaming machine licence:
- (a) remove the equipment, or cause the equipment to be removed, from the licensee's licensed premises;
  - (b) approve, or refuse to approve, the replacement of equipment removed under paragraph (a);
  - (c) cause equipment removed under paragraph (a) to be replaced.
- (10) Linked jackpot equipment shall be in accordance with such type or description as the Director determines.
- (11) If an application for an approval under subsection (1) is refused, the Director shall as soon as practicable give the applicant written notice of, and the reasons for, the refusal.

### **135 Gaming machines to be labelled with identification numbers**

- (1) The Director shall issue an identification number for each gaming machine approved for use in the Territory.
- (2) The Director may, at any time after the issue of an identification number for a gaming machine, issue a new identification number for that gaming machine.
- (3) The Director shall affix or cause to be affixed to each gaming machine a label showing:
- (a) the identification number issued under subsection (1) or (2);  
and
  - (b) such other particulars as the Director considers appropriate,  
on one internal and one external surface of the cabinet of the gaming machine.
- (4) A label affixed under this section is to be made of such material, and be affixed, as the Director considers appropriate.

- (5) A licensee must not operate a gaming machine unless a label that complies with this section is affixed to the gaming machine in accordance with this section.

Penalty: 500 penalty units.

- (6) Before a gaming machine on a licensee's licensed premises is disposed of outside the Territory or is destroyed, the licensee must return or cause to be returned to the Director the label affixed to the gaming machine.

Penalty: 500 penalty units.

- (7) A licensed service contractor must keep a label that is not affixed to a gaming machine in a secure place and must not use the label except in accordance with a procedure that is prescribed or is approved by the Director.

Penalty: 500 penalty units.

- (8) A licensed service contractor must not hold more than the number of labels determined by the Director.

Penalty: 500 penalty units.

### **136 Gaming prohibited on unprotected devices**

- (1) A licensee shall not, without lawful excuse, be in possession of or permit gaming on a gaming machine unless the computer cabinet of the gaming machine is securely sealed with a seal affixed by:

- (a) an inspector;
- (b) a licensed repairer or licensed monitoring provider acting under this Act; or
- (c) a person authorised under section 138(4).

Penalty: \$50,000 or imprisonment for 5 years.

- (2) Subject to subsection (3), at any time when a seal on a computer cabinet has been removed, broken or damaged, the licensee shall not permit gaming on the gaming machine until the gaming machine has been examined by an inspector or person authorised by the Director and the computer cabinet has been sealed.

Penalty: \$50,000 or imprisonment for 5 years.



- (3) Subsection (2) does not apply to a gaming machine that is not available for gaming due to the gaming machine undergoing:
- (a) repairs by a licensed repairer under this Act; or
  - (b) an alteration to effect a change of game, gaming token denomination or betting unit approved, or caused, by the Director under section 40(2).

**136A Director to issue or approve seals**

The Director may issue or approve seals for use in relation to gaming machines.

**137 Unlawful interference with gaming equipment**

- (1) Subject to subsection (2), a person shall not:
- (a) have possession of a device made or adapted, or intended by the person to be used, for interfering with the normal operation of gaming equipment on licensed premises;
  - (b) do any act or thing calculated, or likely, to interfere with the normal operation of gaming equipment on licensed premises;
  - (c) except as provided in section 134, do an act or thing calculated to interfere with gaming equipment under which the return to a player for a result obtained on a gaming machine on licensed premises is different to the return provided for that result by the game as approved by the Director;
  - (d) do an act or thing calculated to render a gaming machine on licensed premises, either temporarily or otherwise, incapable of producing a winning combination; or
  - (e) wilfully insert, or cause to be inserted, in a gaming machine on licensed premises anything other than a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.

Penalty: \$50,000 or imprisonment for 5 years.

- (2) Subsection (1) does not apply to any act or thing done in good faith in connection with:
- (a) the installation, alteration, adjustment, maintenance or repair of gaming equipment by a licensed repairer;

- (b) the carrying out of an installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 58(3);
  - (c) an alteration to a gaming machine to effect a change of game, gaming token denomination or betting unit approved, or caused, by the Director under section 40A; or
  - (d) the exercise or performance of a power or function by an inspector under this Act.
- (3) A person shall not knowingly, because of fraudulent computer programming, gain for that person or another person an advantage in the operation of gaming equipment.

Penalty: \$50,000 or imprisonment for 5 years.

- (4) A person who dishonestly, or because of gross negligence, during the design, manufacture or assembly of gaming equipment, makes provision to subsequently gain for that person or another person an advantage in the operation of the gaming equipment is guilty of an offence.

Penalty: \$50,000 or imprisonment for 5 years.

### **138 Protection of sensitive areas of gaming equipment**

- (1) Subject to subsections (2) and (4), a person, other than an inspector, shall not:
- (a) break a seal securing a computer cabinet or gain access to anything within the computer cabinet;
  - (b) affix a seal to a computer cabinet;
  - (c) break a seal protecting the integrity of the game program of a gaming machine;
  - (d) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within the computer cabinet;
  - (e) remove or interfere with a security device of a gaming machine;
  - (f) interfere with the normal operation of the components of a gaming machine;

- (g) interfere with information stored or transmitted electronically by a gaming machine, linked jackpot arrangement or electronic monitoring system;
- (h) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment;
- (j) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment;
- (k) remove, alter or otherwise interfere with the manufacturer's identification plate or the manufacturer's serial number of a gaming machine;
- (m) remove, alter or otherwise interfere with an identification label affixed to a gaming machine under section 135; or
- (n) affix anything capable of being taken as a label referred to in section 135 to a gaming machine or a device capable of being taken as a gaming machine.

Penalty: \$50,000 or imprisonment for 5 years.

- (2) A licensed repairer is authorised, to such extent as is necessary, in the performance of his or her duties as a licensed repairer to do a thing referred to in subsection (1)(a) to (f) if:
  - (a) a conversion report is submitted under subsection (5) or the licensed repairer immediately submits a repairer's report to the Director in the form determined by the Director; and
  - (b) the licensed repairer does not, without the approval of the Director:
    - (i) break a seal securing a computer cabinet;
    - (ii) affix a seal to a computer cabinet;
    - (iii) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment; or
    - (iv) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment.

- (3) If a licensed repairer breaks a seal securing a computer cabinet, the licensed repairer shall ensure that the gaming machine is not played (other than for testing purposes) until the computer cabinet is again secured with a seal provided by the Director.

Penalty: \$50,000 or imprisonment for 5 years.

- (4) The Director may authorise a person to do anything referred to in subsection (1).
- (5) A person shall not do anything to a gaming machine to effect a change in the game, gaming token denomination or betting unit of the gaming machine unless:
- (a) the alteration is approved, or caused, by the Director under section 40(2); and
  - (b) the person performing the alteration immediately submits a conversion report to the Director in the form determined by the Director.

Penalty: \$50,000 or imprisonment for 5 years.

### **139 Wilful damage of gaming equipment**

A person shall not wilfully damage or deface gaming equipment on licensed premises.

Penalty: \$10,000.

### **140 Use of gaming machines not provided to licensees**

- (1) A person, other than an inspector or a person referred to in subsection (2), shall not play or allow another person to play a gaming machine unless it is provided under a gaming machine licence.

Penalty: \$50,000 or imprisonment for 5 years.

- (2) A person who has possession of a gaming machine:
- (a) for the purpose of conducting:
    - (i) a training course referred to in section 121(3)(d) or 126(3); or
    - (ii) genuine testing or development work referred to in section 121(3)(c); or
  - (b) under an authority under section 126(5) and where the authority permits,

may play or allow another person to play the gaming machine only for the purpose of simulating gaming.

(3) A person shall not:

(a) play, or allow another person to play a gaming machine referred to in subsection (2) by the use of a gaming token which is:

- (i) Australian currency;
- (ii) approved under section 93(3); or
- (iii) in any way negotiable; or

(b) allow any winnings to become payable because of playing a gaming machine referred to in subsection (2).

Penalty: \$50,000 or imprisonment for 5 years.

## **Part 7                      Accounting procedures**

### **141                      Monthly money reconciliations**

(1) Subject to subsection (2), a licensee shall carry out a money reconciliation of all gaming machines installed on the licensee's licensed premises:

- (a) after the end of the operation of gaming machines that started on the last day of each month; and
- (b) before the start of the operation of gaming machines on the first day of the next month.

(2) The Director may direct a licensee to carry out the money reconciliation referred to in subsection (1) during such period as the Director determines, and the licensee shall comply with the direction.

(3) A licensee shall, in conjunction with a money reconciliation carried out under this section, carry out such functions as the Director determines to be carried out in conjunction with the money reconciliation.

Penalty: \$10,000 or imprisonment for 2 years.

**142 Daily money clearances**

- (1) A licensee shall, at least once each day, carry out a money clearance of each gaming machine on the licensee's licensed premises.
- (2) A licensee shall, in conjunction with carrying out a money clearance under subsection (1), carry out such functions as the Director determines to be carried out in conjunction with such a money clearance.

Penalty: \$10,000 or imprisonment for 2 years.

**143 Accounts and analyses**

- (1) A licensee shall keep and maintain such accounting records, in the way and the form determined by the Director, as correctly record and explain the licensee's financial operations in respect of, or connected with, gaming and the conduct of gaming on the licensee's licensed premises.
- (2) A licensee shall carry out such accounting analysis as the Director determines.

Penalty: \$10,000 or imprisonment for 2 years.

**144 Monthly gaming machine reconciliation reports to be submitted**

- (1) A licensee shall lodge with the Director, not later than 14 days after the last day of each month, a gaming machine reconciliation report in respect of each of the licensee's licensed premises for that month.
- (2) A gaming machine reconciliation report shall under subsection (1):
  - (a) be made in the way and form determined by the Director; and
  - (b) give an accurate account of the matters contained in the report in relation to gaming and the conduct of gaming on the premises to which it relates.

Penalty: \$10,000 or imprisonment for 2 years.

**145 Records not to be falsified, &c.**

A person shall not, with intent to defraud:

- (a) destroy, alter, mutilate or falsify an accounting record or report; or

- (b) make, or cause to be made, a false, erroneous or misleading entry in, or omit or alter, or cause to be omitted or altered, an entry in an accounting record or report,

required to be kept, maintained or lodged under this Part.

Penalty: \$25,000 or imprisonment for 2 years.

#### **146 Audit of accounts**

- (1) In this section, **accountant** means:
  - (a) a member of the Institute of Chartered Accountants in Australia who holds a current Certificate of Public Practice issued by the Institute;
  - (b) a member of CPA Australia who holds a current Public Practice Certificate in accordance with the by-laws of CPA Australia;
  - (c) a person registered as an auditor under the Corporations Act 2001; or
  - (d) in a particular case, a member of an accounting body referred to in paragraph (a) or (b) who:
    - (i) does not hold the current certificate referred to in the paragraph; and
    - (ii) is approved as an accountant by the Director.
- (2) A licensee shall, in respect of each of the licensee's licensed premises, at the licensee's own expense and not later than 3 months after the expiration of each financial year:
  - (a) prepare, or cause to be prepared, a statement of income and expenditure, a statement of financial position and a statement of cash flow that also identifies receipts, payments and all accounts relating to gaming on the licensee's licensed premises during the year; and
  - (b) have the accounts relating to such gaming and conduct of gaming audited by an accountant.

- (3) If a person ceases for any reason to be a licensee, the person shall, at the person's own expense and not later than one month after ceasing to be a licensee (or such further period as the Director may allow):
- (a) prepare, or cause to be prepared, a statement of income and expenditure, a statement of financial position and a statement of cash flow that also identifies receipts, payments and all accounts relating to gaming on the person's licensed premises from the day to which the gaming machine accounts were last audited under subsection (2)(b) to the day the person ceased to be a licensee or, if an audit has not been performed, for the period from the start of gaming to the day the person ceased to be a licensee; and
  - (b) have the accounts relating to such gaming and conduct of gaming audited by an accountant.
- (6) If the licensee is a club it must include in the statement of receipts and payments prepared under subsection (2)(a) or (3)(a):
- (a) a statement detailing the number of members in each class of membership of the club as at the expiration of the financial year;
  - (b) a statement detailing the club's contributions to the community, including the identity of recipients and the amounts dispersed;
  - (c) a statutory declaration signed by the principal executive officer of the club declaring that the proceeds from the conduct of gaming were expended promoting the objectives of the club; and
  - (d) such other matters as may be prescribed.

Penalty: \$10,000 or imprisonment for 2 years.

**147 Books, records, &c., to be kept for 7 years**

Subject to section 162, an accounting record required to be kept and maintained by a licensee under this Part shall be retained by the licensee for not less than 7 years from the date of the latest entry in the accounting record.

Penalty: \$10,000 or imprisonment for 2 years.



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**Part 8                    Taxes, levies and fees****148                    Gross monthly profit**

- (1) Each month the Director shall make, or cause to be made, in respect of the preceding month, an assessment of the gross monthly profit of each licensed premises and the assessment shall be taken to be, for the preceding month, the gross monthly profit of the licensed premises.
- (2) If an assessment is made under subsection (1) by way of an electronic monitoring system installed on the licensee's licensed premises under an agreement referred to in section 59A(6) or (8), the period covered by the assessment:
  - (a) for the month in which the system is installed, commences when the system first reports data from the premises to the Director and ends when the system first reports data from the premises to the Director in the next month; and
  - (b) for each month after the month in which the system is installed, commences when the system first reports data from the premises to the Director for the month and ends when the system first reports data from the premises to the Director in the next month.

**149                    Gaming machine tax**

- (1) A licensee shall pay, or cause to be paid, in the manner prescribed a gaming machine tax to the Director each month in respect of the licensee's licensed premises.
- (2) The gaming machine tax shall be paid on or before the day prescribed of the month next following the month in respect of which it is payable.
- (3) The amount of gaming machine tax payable in respect of licensed premises is the amount as is represented by the percentage prescribed for the category of licensed premises to which the licensed premises belongs of the gross monthly profit of the licensed premises for the month in respect of which the tax is payable.
- (4) The percentage prescribed for the purposes of subsection (3) may vary depending on the amount of gross monthly profit.

**149A                    Gaming machine ownership costs**

- (1) If a licensee uses a gaming machine under the licensee's licence that is provided by the Director, the licensee must pay to the

Director each month while the gaming machine continues to be used the costs and charges in respect of the gaming machine imposed under this section.

- (2) The costs and charges are to be paid in the manner prescribed on or before the day prescribed of the month next following the month in respect of which they are payable.
- (3) The costs and charges to be imposed on a licensee under this section are to be prescribed.
- (4) The costs and charges imposed under this section are to be determined having regard to the reasonable costs and charges arising out of, or associated with, the Director's ownership of the gaming machine, monitoring costs and the costs of repairs to and maintenance of the gaming machine.
- (5) The Director may waive or reduce a cost or charge payable by a licensee under this section.
- (6) The Director must report to the Minister all costs and charges waived or reduced under subsection (5) during a financial year within 3 months after the end of the financial year.

**150 Gaming machine community benefit levy**

- (1) A licensee shall pay a gaming machine community benefit levy to the Director each month for the licensee's licensed premises.
- (2) The gaming machine community benefit levy shall be paid in the manner prescribed on or before the prescribed day in the month after the month for which it is payable.
- (3) The amount of the gaming machine community benefit levy payable for licensed premises for a month is the prescribed percentage of the gross monthly profit of the licensed premises for the month.

**152 Payment of monthly taxes, levies etc.**

- (1) A licensee shall, in respect of each of the licensee's licensed premises, ensure that the Director receives, on or before the day prescribed of each month, an amount not less than the total amount of:
  - (a) the gaming machine tax and gaming machine community benefit levy payable under this Part;
  - (ab) any costs and charges payable under section 149A;

- (b) any penalty payable under section 153 on or before that day; and
- (c) any gaming machine tax, gaming machine community benefit levy and any penalty under section 153 payable and remaining unpaid at the end of the day prescribed of the preceding month.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) A payment to the Director in respect of gaming machine tax, gaming machine community benefit levy, costs and charges payable under section 149A or a penalty under section 153 shall be identifiable as being in respect of a single licensed premises and exclusive of payments for any other licensee or purpose.

Penalty: \$10,000 or imprisonment for 2 years.

- (3) Where a payment to the Director does not comply with subsection (2), the Director shall determine the licensed premises or purpose for which the payment was made and this Act applies to the payment as if the payment had been made and identified for the licensed premises or purpose so determined.

### **153 Penalty for late payment**

- (1) Where, in respect of any licensed premises, by the end of the day prescribed of a month (or at the discretion of the Director by a time not more than 7 days later than the end of the day prescribed) the amount received by the Director under section 152(1) is less than the total amount referred to in that subsection in respect of that month:
  - (a) the Director shall impose on the licensee a penalty calculated by applying the percentage prescribed on the difference between the 2 amounts; and
  - (b) the amount received is to be credited as prescribed.
- (2) A penalty imposed under subsection (1)(a) is to be paid in the manner prescribed and is due and payable by the licensee on or before the day prescribed of the month following the date on which it is imposed.

**154 Overpaid money**

Where the amount received by the Director in a month under section 152(1) is greater than the total amount referred to in that subsection, the difference shall be:

- (a) taken to be a payment forming part of the payment to be made for the following month under section 152(1) in respect of the licensed premises; or
- (b) at the discretion of the Director, forwarded to the licensee, on written application by the licensee.

**155 Statement and report by Director**

- (1) The Director shall forward to a licensee as soon as practicable after the receipt of each monthly gaming machine reconciliation report from the licensee under section 144 or, if a complete report is not received by the expiration of 10 days after the date on which the report is due, as soon as practicable after that expiration:

- (a) a financial statement; and
- (b) a gaming machine performance report,

containing such particulars as the Director considers appropriate in respect of each of the licensee's licensed premises.

- (2) The Director may, by written notice, require a licensee to provide to the Director an explanation, by a machine manager of the licensed premises, in relation to any matter contained in a statement or report referred to in subsection (1).
- (3) A licensee shall, on receiving a statement or report under subsection (1), cause the report to be reviewed and signed by a machine manager of the licensed premises.

Penalty: \$10,000.

**156 Disposition of fees etc.**

- (1) Except as otherwise provided by this Act, the Regulations or a contract, agreement or other arrangement entered into for the purposes of this Act, all fees and charges payable under this Act, other than a payment referred to in subsection (2), received by the Director shall be paid into the Central Holding Authority.
- (2) A payment in respect of a gaming machine tax, gaming machine community benefit levy or penalty under section 153 shall, on its receipt, be paid into the Director's Agency Operating Account for

the purpose of holding such payments until an assessment is made on the amounts of such payment under subsection (3).

- (3) A payment referred to in subsection (2) shall, as soon as practicable after the production of the relevant statement under section 155(1)(a), be withdrawn from the account referred to in subsection (2) and such part of the payment as is assessed by the Director as being:
  - (a) gaming machine tax or a penalty under section 153 shall be paid by the Director into the Central Holding Authority
  - (b) gaming machine community benefit levy, shall be paid by the Director into the Community Benefit Fund.

### **157 Recovery of taxes and levies**

- (1) Except as otherwise provided by this Act, the Regulations or a contract, agreement or other arrangement entered into for the purposes of this Act, a gaming machine tax, gaming machine community benefit levy, costs and charges payable under section 149A or a penalty payable under section 153 that remains unpaid may be recovered as a debt due and payable by the licensee to the Territory.
- (2) The Director may, instead of proceeding with or continuing an action under subsection (1), accept in full payment of a debt payable, an amount that is less than the amount payable or remaining unpaid where:
  - (a) the gaming machine licence in relation to which the debt is payable has been cancelled or surrendered; and
  - (b) the person who held the licence is not the holder of any other gaming machine licence.

### **158 Offences relating to revenue**

- (1) A licensee who:
  - (a) wilfully evades the payment, in whole or part, of a gaming machine tax or gaming machine community benefit levy payable under this Part, any costs and charges payable under section 149A or a penalty payable under section 153;
  - (b) makes or provides, or authorises or permits the making or providing of, a monthly gaming machine reconciliation report to the Director knowing the report to be false, erroneous or misleading in a material particular; or

- (c) knowingly makes or provides, or authorises or permits the making of, a monthly gaming machine reconciliation report to the Director containing errors in calculation that result in a delay or avoidance of the payment, in whole or part, of a gaming machine tax or gaming machine community benefit levy payable under this Part or a penalty payable under section 153,

is guilty of an offence.

Penalty: \$25,000 or imprisonment for 2 years.

- (2) A licensee who:

- (a) makes or provides, or authorises or permits the making or providing of, a monthly gaming machine reconciliation report to the Director that is false, erroneous or misleading in a material particular, without having taken reasonable steps to ensure that the report was not false, erroneous or misleading in a material particular; or
- (b) knowingly lodges or causes to be lodged with the Director a remittance of an amount less than the amount due and payable under section 152(1),

is guilty of an offence.

Penalty: \$10,000 or imprisonment for 2 years.

### **159 Offences relating to explanations**

- (1) A licensee who, when required under section 155(2) to provide a written explanation:

- (a) fails to provide a written explanation; or
- (b) knowingly provides an explanation that is false, erroneous or misleading in a material particular,

is guilty of an offence.

- (2) A machine manager who knowingly makes a written explanation, for the purposes of a requirement under section 155(2), that is false, erroneous or misleading in a material particular is guilty of an offence.

Penalty: \$25,000 or imprisonment for 2 years.

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## Part 9                    Directions, powers, &c.

### 160            Definitions

In this Part, unless the contrary intention appears:

**article** means:

- (a) gaming equipment;
- (b) a restricted component;
- (c) a device capable of being represented as being a gaming machine or linked jackpot arrangement;
- (d) anything capable of forming gaming equipment;
- (e) anything inserted, or capable of being inserted, into a gaming machine in order to operate or gain credit on the gaming machine (other than a gaming token of the denomination or type displayed on the gaming machine);
- (f) a device intended for use, or capable of being used, to interfere with the normal operation of gaming equipment;
- (g) anything that permits or facilitates cheating or stealing;
- (h) a gaming token;
- (j) a lock or key;
- (k) a counter of or apparatus for weighing gaming tokens; or
- (m) any other item related to gaming or the conduct of gaming or the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment.

**records** means books, accounts, records or documents, in any form, which are related to:

- (a) the conduct of gaming;
- (b) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (c) the administration of licensed premises.

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**161 Directions Commission or Director**

- (1) The Commission or the Director may give written directions to a person about a matter connected with the administration or enforcement of this Act, including but not limited to directions to the following persons about the following matters:
- (a) a licensee about the conduct of gaming or the administration of the licensee's licensed premises;
  - (b) a licensed monitoring provider about the conduct of gaming or the supply of a basic monitoring service;
  - (c) a recognised manufacturer or supplier of gaming machines about the manufacture, sale or supply of gaming machines;
  - (d) a licensed service contractor about the installation, alteration, adjustment, maintenance, repair or removal of gaming equipment;
  - (e) a licensed repairer about the installation, alteration, adjustment, maintenance, repair or removal of gaming equipment;
  - (f) a person authorised or approved under this Act about the person's functions or powers under this Act.
- (2) A person shall comply with and not contravene a direction given under subsection (1).

Penalty: \$10,000 or imprisonment for 2 years.

- (3) If a person who has been convicted of an offence against subsection (1) continues to fail to comply or continues to contravene the direction given under the subsection, the person is guilty of an offence.

Penalty: \$1,000 for each day during which the offence continues.

**161A Guidelines by Commissioner or Director**

The Commission or the Director may publish guidelines for the administration of this Act.

**162 Powers of inspectors**

- (1) Subject to subsections (2) and (7), an inspector, who believes on reasonable grounds that it is necessary in the exercise or performance of the inspector's powers or functions under this Act,



may enter, be and remain on licensed premises or any other place in or at which the inspector believes on reasonable grounds any:

- (a) article is manufactured, assembled, sold, supplied, stored, transported, handled, installed, altered, obtained, possessed, operated, used, adjusted, maintained, repaired or kept; or
- (b) records are made, maintained, prepared, handled, stored or kept;

and may:

- (c) make such investigations and inquiries as are necessary to ascertain whether this Act is being complied with;
- (d) make an inspection of the licensed premises or other place and of:
  - (i) any articles, records, fittings and fixtures; and
  - (ii) any other thing of any kind apparently used, or capable of being used, in connection with:
    - (A) gaming or the conduct of gaming; or
    - (B) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
- (e) open, or order to be opened:
  - (i) any container or other receptacle of any kind; or
  - (ii) a door of any container or other receptacle of any kind, used for the storage or conveyance of any article or records or that the inspector believes on reasonable grounds contains any article or records;
- (f) search for and seize and retain any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been committed;
- (g) open or order to be opened any gaming equipment;

- (h) inspect and test any gaming equipment or part of the gaming equipment and order the withdrawal from use of any gaming equipment or part considered by the inspector to be unsatisfactory for use;
  - (j) take such photographs, or films or audio or visual recordings that he or she considers may afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been, or to be likely to be, committed;
  - (k) require a person to produce to the inspector any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to that person or alleged by that person to have been granted or issued to that person;
  - (m) when so required by the Director:
    - (ii) alter a gaming machine to effect a change in the game, gaming token denomination or betting unit; or
    - (iii) take possession of and remove any gaming equipment or ancillary or related property of the Crown and do such works and actions as are required in order to do so; and
  - (n) in all other respects, exercise and perform the inspector's powers and functions under this Act.
- (2) Where an act referred to in subsection (1)(a) or (b) is carried out during the night time, an entry and inspection under subsection (1) may be made at all reasonable times during the day time or night time but otherwise such entry and inspection shall be made at all reasonable times during the day time.
- (3) An inspector, who believes on reasonable grounds that it is necessary in the exercise or performance of the inspector's powers or functions under this Act, may:
- (a) require any person who has in the person's possession or under the person's control any article or records to:
    - (i) produce for the inspector's inspection such article or records; and
    - (ii) attend before the inspector at a time and place named and to answer questions or supply information with respect to any article or records or any entry in any article or records;

- (b) inspect any article or records referred to in paragraph (a) and take such notes or copies of or in relation to such records or take extracts from such records as the inspector considers are necessary;
- (c) for the purpose of obtaining evidence for production in proceedings against any person for an offence against this Act or any other Act or law, seize and retain any article or records inspected by the inspector under paragraph (b);
- (d) require any person responsible for or connected with:
  - (i) the conduct of gaming; or
  - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (iii) the administration of licensed premises,to attend before the inspector at a time and place named and to answer any questions or supply any information with respect to the matters referred to in this paragraph;
- (e) require a person to state his or her full name, usual place of residence and date of birth;
- (f) require a person referred to in paragraph (e) to produce evidence of the correctness of any particular stated in answer under that paragraph if the inspector suspects that the particular is false;
- (g) receive and investigate complaints from any person with respect to:
  - (i) gaming;
  - (ii) the conduct of gaming;
  - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (iv) the administration of licensed premises,and advise the person the results of the investigations;

- (h) stop and search any vehicle or vessel used or that the inspector believes on reasonable grounds has been, is being, or is likely to be, used for the conveyance of any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act;
  - (j) call to the inspector's aid:
    - (i) another inspector or a member of the Police Force; or
    - (ii) a person whom the inspector thinks is competent to assist the inspector in the exercise or the performance of the inspector's powers or functions under this Act;
  - (k) use such force as is reasonably necessary in the circumstances in the exercise or performance of the inspector's powers or functions under this Act;
  - (m) in order to identify or protect the integrity of any article, records or other thing, mark, fasten, secure or seal:
    - (i) the article, records or other thing; or
    - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to the article, records or other thing; and
  - (n) exercise or perform such other powers or functions as may be prescribed.
- (4) Any:
- (a) article, records or other thing seized and retained under subsection (1)(f); or
  - (b) article or records seized and retained under subsection (3)(c),  
may be detained for such period as the inspector, on reasonable grounds, thinks fit and, where any proceedings are started for the purpose of which the article or records or other thing was or were retained, shall be detained until the final determination of those proceedings including any appeal in respect of those proceedings.
- (5) Where, under subsection (1)(f) or (3)(c), records are seized and retained, the person entitled to possession of the records, on application to the inspector who retained the records and within a reasonable time after the seizure, shall be provided by the inspector with a correct copy of the records.

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- (6) A copy of records provided under subsection (5) certified by the inspector as being a correct copy is admissible as evidence in any court and has the same effect as if it were the original of the records.
- (7) Before an inspector enters any premises that are used or any part of premises that is used exclusively as a private dwelling, the inspector shall, except where the inspector has the permission of the occupier of the premises or part of the premises to the entry, obtain from a Justice a warrant to enter the premises or part.
- (8) For the purposes of subsections (6) to (10), premises used as a dwelling house do not include the curtilage of those premises.
- (9) A Justice who is satisfied on the information of an inspector that there is reasonable cause to suspect that any article, records or other thing relevant to the administration of this Act is or are on premises or a part of premises used exclusively as a private dwelling and that:
- (a) in respect of the article, records or thing an offence against this Act or any other Act or law has been, is being or is likely to be, committed; or
  - (b) it is or they are likely to be or provide evidence for production in possible subsequent proceedings against any person for an offence against this Act or any other Act or law,
- may issue a warrant, directed to the inspector, to enter the premises or part of premises specified in the warrant for the purpose of exercising and performing powers and the inspector's functions under this Act.
- (10) For one month from the date of its issue, a warrant issued under subsection (9) is authority for the inspector and any person acting in aid of the inspector:
- (a) to enter the premises or part of premises specified in the warrant; and
  - (b) exercise and perform the inspector's powers under this Act.
- (11) For the purpose of gaining entry to any place that the inspector is authorised under this Act to enter, an inspector and all persons acting in aid of the inspector may use such force as is reasonable in the circumstances.
- (12) A person who is acting in aid of an inspector has and may exercise and perform the powers and functions of an inspector under this Act.

- (13) A requirement by an inspector under this section may be made orally or in writing directed to the person to or on whom it is made.
- (14) A requirement made to a person by an inspector under this section to produce records is, where the records are not written, or are not written in the English language, a requirement to produce (at that person's expense):
- (a) such records; and
  - (b) a statement, written in the English language, setting forth such information in the records as is not written or is not written in the English language.
- (15) A person is not required, in respect of any matter within the application of this Act, to answer any question or give any information tending to incriminate the person.

### **163 Offences relating to inspectors**

A person shall not:

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate an inspector or person acting in aid of an inspector who is exercising or performing powers or functions under this Act or attempting to do so;
- (b) when required under this Act to produce:
  - (i) for inspection an article or record; or
  - (ii) a licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to the person,fail without lawful excuse to produce it in accordance with the requirement;
- (c) when required under this Act to attend before an inspector, fail without lawful excuse to so attend in accordance with the requirement;
- (d) when required under section 162(3)(a) or (d) to answer a question or supply information with respect to:
  - (i) an article, record or an entry in such record;
  - (ii) the conduct of gaming;

(iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or

(iv) the administration of licensed premises,

or, knowing or being in a position to know the answer or information required, fail to answer that question or supply that information or supply information that is to the person's knowledge false, erroneous or misleading in a material particular;

(e) when required under section 162(3)(e) to state the person's full name, the address of the person's usual place of residence and the person's date of birth or any of those particulars:

(i) fail to immediately state any such particular; or

(ii) state any false particular;

(f) when required under section 162(3)(f) to produce evidence of the correctness of any particular:

(i) fail to produce that evidence; or

(ii) produce false evidence with respect to that particular;

(g) retake an article, record or other thing seized and retained under this Act;

(h) tamper with:

(i) an article, record or other thing; or

(ii) a door, gate or opening that the inspector believes on reasonable grounds affords access to an article, record or other thing;

marked, fastened, secured or sealed under this Act;

(j) fail to open a container or other receptacle of any kind, a door of a container or other receptacle of any kind or gaming equipment when ordered to do so by an inspector acting under this Act;

- (k) fail to withdraw from use gaming equipment or part of the gaming equipment considered by an inspector to be unsatisfactory for use when ordered to do so by an inspector acting under this Act; or
- (m) prevent, directly or indirectly, a person from attending before an inspector, or producing to an inspector an article or record or answering a question or supplying information to an inspector when that person is required to do so under this Act.

Penalty: \$25,000 or imprisonment for 2 years.

#### **164 Minister may order inquiry**

The Minister may appoint the Commission or a person, including a member of the Commission appointed under section 6 of the *Northern Territory Licensing Commission Act* or the Director, to hold an inquiry into any or all aspects of:

- (a) gaming;
- (b) the conduct of gaming;
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

#### **165 Review and termination of agreements**

- (1) A prescribed person, if directed by the Director, shall provide to the Director within the time specified in the direction such information or material as the Director thinks fit with respect to a lease, agreement or arrangement (*the agreement*) that the prescribed person has with any other person relating to the conduct of the business of the prescribed person.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) Without limiting the generality of subsection (1), matters in respect of which the Director may direct the provision of information or material include:
  - (a) the names of persons entering into the agreement;
  - (b) a description of property, goods or other things or any services provided or to be provided;
  - (c) the value, type or nature of consideration; and



(d) the period of the agreement.

- (3) A prescribed person, if directed by the Director, shall provide to the Director, within the time specified in the direction, a copy of the agreement (if it is in writing).

Penalty: \$10,000 or imprisonment for 2 years.

- (4) If the Director, after reviewing information or material provided under this section, considers (having regard to the terms of the agreement and such other information or material as the Director considers is relevant) that the continuation of the agreement:

(a) is not in the public interest; or

(b) jeopardises the integrity of:

(i) gaming;

(ii) the conduct of gaming; or

(iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment,

the Director may issue to a listed person or a holder of a licence under this Act who is the party to the agreement a written notice to show cause why the agreement should not be terminated.

- (5) Notice under subsection (4) shall set out the grounds for its issue and shall specify a date, not less than 21 days after its issue, on or before which cause is to be shown.
- (6) A copy of a notice under subsection (4) shall be given to the other party to the agreement.
- (7) A prescribed person to whom notice under subsection (4) is issued may give a written answer to the Director to show cause at any time not later than the date specified in the notice.
- (8) The other party may make such submissions to the Director as the party thinks fit at any time not later than the date specified in the notice.

- (9) The Director shall consider answers given in reply to a notice to show cause and submissions made under subsection (8) and, if the Director considers that:
- (a) answers given or submissions made in reply to or in respect of the notice are satisfactory, the Director shall not take any action or any further action in relation to the notice; or
  - (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made, the Director may recommend to the Commission that the agreement be terminated.
- (10) Where the Director makes a recommendation to the Commission, the Director shall submit the notice to show cause and answers, all submissions made and such other information or material in the Director's possession as the Director considers is relevant to the recommendation.
- (11) The Commission, having regard to the recommendation of the Director, other matters referred to in subsection (10) and to such other information or material as the Commission considers is relevant, may:
- (a) take no action with respect to the agreement if the Commission considers action is not warranted; or
  - (b) direct the termination of the agreement.
- (12) A direction under subsection (11)(b) shall be in writing and given to the parties to the agreement and shall specify the reasons for the termination and a date on which the agreement is terminated under this Act.
- (13) An agreement, if not sooner terminated by the parties to it, is terminated by force of this Act on the date specified in the direction under subsection (11)(b).
- (14) The termination of an agreement by force of this Act does not affect the rights and obligations of the parties to the agreement up to the time of its termination.
- (15) No liability for breach of an agreement attaches to any party to the agreement because of its termination by force of this Act.
- (16) In this section:
- prescribed person*** means:
- (a) a listed person;

- (b) the holder of a licence under this Act; or
- (c) a person who is approved for any purpose under this Act.

**166 Financial institution may be required to provide particulars**

- (1) The manager or other principal officer of a financial institution in which a licensee keeps and maintains an account in relation to the operation of the licensee's licensed premises shall, when so required in writing by the Director, submit to the Director a statement of account and other particulars required by the Director to be provided, including copies of cheques or records relevant to the account.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) No liability is incurred by the financial institution or the manager or other principal officer of the financial institution in respect of any breach of trust or otherwise because of the provision of any statement or particulars or copies under this section.

**Part 10 General**

**167 Certain persons not to play gaming machines**

- (1) A licensed repairer or service contractor shall not play a gaming machine installed on licensed premises except to such extent as is necessary for the repairer or contractor to alter, adjust, maintain, repair or test the gaming machine.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) A person who is a licensee or machine manager shall not play a gaming machine installed on licensed premises of which that person is licensee or machine manager:

- (a) during the period that the person is the licensee or machine manager of the licensed premises, except to such extent as is necessary to do so in the course of carrying out duties as the licensee or machine manager; or

- (b) for the period of 30 days after ceasing to be such licensee or machine manager.

Penalty: \$5,000.

- (3) Where winnings become payable because of playing a gaming machine as authorised by this section, those winnings remain the property of the licensee and are not payable to any person.

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**168 Inspectors may be prohibited from playing gaming machines**

- (1) An inspector, if directed in writing by the Director, shall not play a gaming machine except to such extent as is necessary for the exercise or performance of the inspector's powers and functions under this Act.
- (2) A direction under subsection (1) may be made subject to such conditions as the Director thinks fit.

**169 Prohibition on control of applications by clubs**

A person shall not have or gain:

- (a) control over, or the ability to control:
  - (i) whether or not a club makes an application under Part 3; or
  - (ii) the content of an application made by a club under Part 3; or
- (b) the ability to interpose between a club and the Director in respect to an application made by the club under Part 3,

unless the person is the secretary, an executive officer or a member of the club exercising or performing the powers or functions that the person has as secretary, executive officer or member.

Penalty: \$10,000 or imprisonment for 2 years.

**170 Restriction on certain agreements**

- (1) A licensee or any other person shall not enter into, or be a party to, a lease, agreement or arrangement for a person to lease, let, lend or otherwise provide any property, thing or service to the licensee in return for any direct or indirect interest in or percentage or share of:
  - (a) the amount bet for the purpose of gaming; or
  - (b) moneys, revenues, profits or earnings from the conduct of gaming,

on the licensee's licensed premises.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) If a licensee or any other person, before the issue of the licensee's gaming machine licence, has entered into or has in any way become a party to a lease, agreement or arrangement referred to in

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subsection (1), the lease, agreement or arrangement on and from the issue of the gaming machine licence, to the extent that it contravenes or is inconsistent with subsection (1), is void.

- (3) No right of action arises against any person because of the operation of subsection (2).
- (4) The Commission may, where the Commission is of the opinion that it is in the public interest to do so, exempt in writing a lease, agreement or arrangement referred to in subsection (1) and subject such exemption to such conditions as the Commission considers appropriate.
- (5) An exemption under subsection (4) may, at any time, be revoked by the Commission.
- (6) This section does not apply to an agreement referred to in section 134(6).

#### **171 Exemption of devices, &c.**

- (1) The Director may declare that anything is not a gaming machine or a device capable of being represented as being a gaming machine for the purposes of this Act.
- (2) The Director may declare that anything is not a restricted component for the purposes of this Act.

#### **172 Approvals and authorities**

- (1) Where this Act provides that an act or thing shall not be done except with, or may be done with, the approval or authorisation of the Commission or Director, the approval or authorisation may be granted by the Commission or Director by instrument in writing.
- (2) An approval or authorisation under this Act may:
  - (a) be subject to such conditions as the Commission or the Director thinks fit; and
  - (b) the Commission or the Director may at any time:
    - (i) impose further conditions on the approval or authorisation;
    - (ii) vary the conditions or further conditions; and
    - (iii) revoke the approval or authorisation,

if the Commission or Director considers it necessary or appropriate in the public interest or for the proper conduct of gaming.

- (3) Without limiting section 134(5), a person shall not contravene or fail to comply with a condition to which an approval or authorisation is subject.

Penalty: \$10,000 or imprisonment for 2 years.

- (4) A person shall not:

- (a) modify anything subject to an approval or authorisation from;  
or  
(b) fail to maintain anything subject to an approval or authorisation in,

the form, state or condition in which it was approved or authorised except in order to comply with the conditions to which the approval or authorisation is subject.

Penalty: \$10,000 or imprisonment for 2 years.

### **173 Bribery**

- (1) A person who corruptly asks for, receives, or obtains or agrees to receive or obtain any money, property or benefit of any kind for the person or any other person:

- (a) so that the person will forego or neglect his or her powers or functions under this Act or in order to influence the person in the exercise or performance of his or her powers or functions under this Act;
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the person in the exercise or performance of his or her powers or functions under this Act; or
- (c) for the person to use or take advantage of his or her position improperly to gain a benefit or advantage for or facilitate the commission of an offence by another person,

is guilty of an offence.

- (2) A person who corruptly gives, confers or procures or promises or offers to give, confer or procure to, on or for any other person money, property or benefit of any kind:
- (a) so that the person will forego or neglect his or her powers or functions under this Act or in order to influence that other person in the exercise or performance of his or her powers or functions under this Act;
  - (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by that other person in the exercise or performance of his or her powers or functions under this Act; or
  - (c) for that other person to use or take advantage of his or her position improperly to gain any benefit or advantage for or facilitate the commission of an offence,

is guilty of an offence.

Penalty: \$25,000 or imprisonment for 2 years.

#### **174 Financial connections and interests of inspectors**

- (1) An inspector:
- (a) shall not knowingly have, directly or indirectly:
    - (i) any business or financial connection with; or
    - (ii) any business or financial interest in any matter in conjunction with,  
a listed person or the holder of a licence under this Act; or
  - (b) shall not:
    - (i) be;
    - (ii) be an employee in any capacity of; or
    - (iii) hold the position of executive officer or secretary of a body corporate which is,  
a listed person or the holder of a licence under this Act; or

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- (c) shall not, without the approval of the Director, solicit or accept employment from, be an employee in any capacity of, or have a business or financial connection with a listed person or the holder of a licence under this Act for one year after ceasing to be an inspector.

Penalty: \$10,000 or imprisonment for 2 years.

- (2) A listed person or the holder of a licence under this Act:

- (a) shall not knowingly have, directly or indirectly, any business or financial connection, or any business or financial interest in any matter in conjunction, with an inspector;
- (b) shall not employ in any capacity an inspector; or
- (c) shall not, without the approval of the Director, employ in any capacity or have a business or financial connection with a person who was an inspector for one year after the person ceases to be an inspector.

Penalty: \$10,000 or imprisonment for 2 years.

- (3) An inspector who has directly or indirectly:

- (a) any business or financial connection with; or
- (b) any business or financial interest in any matter in conjunction with,

a person who becomes a listed person, the holder of a licence under this Act or the applicant for a licence under this Act shall, immediately on becoming aware that the person has become listed, licensed or an applicant:

- (c) notify the Director of the connection or interest; and
- (d) if directed by the Director, terminate the connection or relinquish the interest within a time specified by the Director.

Penalty: \$10,000 or imprisonment for 2 years.

- (4) This section does not prohibit an inspector:

- (a) from being a financial member of a club that is a licensee, or having a financial connection with a club that is generally had by other members of the club; or
- (b) from having a business or financial connection (being a connection that is not related to the manufacture, assembly,



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sale, supply, installation, alteration, obtaining, possession, adjustment, maintenance or repair of gaming equipment) with a listed person or the holder of a licence under this Act that is generally had by members of the public.

- (5) An inspector shall, when required by the Director, disclose to the Director the inspector's membership of, and any interest that the inspector has in or in relation to, a club.

Penalty: \$10,000.

### **175 Reporting of accounting discrepancies and criminal activity**

- (1) A licensee, licensed repairer, licensed service contractor, licensed monitoring provider or machine manager shall, not later than 3 days after becoming aware or suspecting that a person by fraud, misrepresentation or theft has obtained a benefit for the person or another, advise the Director in writing of all facts known to the licensee or machine manager in relation to the fraud, misrepresentation or theft.

- (2) A person who:

- (a) terminates the employment or otherwise prejudices the career of;
- (b) prejudices the safety of; or
- (c) intimidates or harasses,

a licensee, licensed repairer, licensed service contractor, licensed monitoring provider, machine manager or other person because the licensee, licensed repairer, licensed service contractor, licensed monitoring provider or machine manager has advised, or may advise, the Director under subsection (1) is guilty of an offence.

Penalty: \$10,000 or imprisonment for 2 years.

### **176 Cheating**

- (1) A person shall not dishonestly:
- (a) by a scheme or practice;
  - (b) by the use of gaming equipment; or
  - (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing,

in relation to gaming or the conduct of gaming, induce a licensee or a person acting on behalf of the licensee to deliver, give or credit to the person or another person any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(2) A licensee shall not dishonestly:

- (a) by a scheme or practice;
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing,

in relation to gaming or the conduct of gaming, induce a person to deliver, give or credit to the licensee or any other person any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(3) In subsection (2), **licensee** includes:

- (a) a machine manager or a person who supervises gaming or attends to gaming machines on behalf of a licensee; and
- (b) a person employed by a licensee to sell or redeem gaming tokens or carry out centralised credit transactions on behalf of the licensee.

(4) A person shall not dishonestly cause gaming equipment to deliver, give or credit to the person or another person any gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(5) A person shall not, for the purpose of cheating or stealing in relation to gaming or the conduct of gaming, use, or be in possession of:

- (a) any gaming tokens that the person knows are bogus or counterfeit; or
- (b) anything that permits or facilitates cheating or stealing.

Penalty: \$50,000 or imprisonment for 5 years.

**177 Forgery and similar offences**

A person who:

- (a) forges or counterfeits any gaming token, licence, identification card or other form of identification authorised to be issued under this Act;
- (b) knowingly utters any such gaming token, licence, identification card or other form of identification so forged or counterfeited;
- (c) personates any person named in any such licence, identification card or other form of identification;
- (d) falsely represents that the person is an inspector;
- (e) connives at any such forging, counterfeiting, uttering, personating or representing as referred to in this section; or
- (f) provides or submits information or material knowing it to be false, erroneous or misleading in a material particular in, or in relation to, any application, response to a requirement, submission, advice, notification, answer to a notice, statement or affidavit made under this Act,

is guilty of an offence.

Penalty: \$50,000 or imprisonment for 5 years.

**178 Detention, arrest, &c., of persons by police in relation to certain offences**

- (1) A member of the Police Force may arrest without warrant a person who has, or whom the member suspects on reasonable grounds has, committed or attempted to commit an offence against section 52, 120(1) or (2), 137(1), 176 or 177.
- (2) A member of the Police Force who under subsection (1) arrests a person, may:
  - (a) search the person and the possessions of the person;
  - (b) seize anything found as a result of the search that may afford evidence of the commission of an offence; and
  - (c) use such force as is reasonable in the circumstances for the purpose of such detention and search.

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**179 Liability for offences by servants, agents or employees**

(1) Where a person commits an offence against this Act as a servant, agent or employee, then, without limiting section 12 of the Criminal Code, the employer of that person is, subject to subsection (2), taken:

- (a) to have committed the offence; and
- (b) to be criminally responsible for the act or omission that constitutes the offence,

and, notwithstanding any other rule of law or practice, may be charged with and convicted of the offence.

(2) It is a defence to a prosecution for an offence against an employer referred to in subsection (1) to prove that the offence was committed without the employer's consent or connivance and that the employer exercised due diligence to prevent the commission of the offence.

(3) In proceedings for an offence against this Act alleged to have been committed by a defendant as servant, agent or employee, the court shall not convict the defendant if the evidence establishes that:

- (a) the offence was committed while the business of the defendant's employer was being conducted under the personal supervision of the employer or any manager or any other representative of the employer; and
- (b) the reason that the defendant committed the offence was that the defendant had been compelled to do so by the employer, manager or representative.

(4) Except as provided by subsection (2), this section does not prejudice any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

**180 Liability for offence by body corporate**

(1) Where a body corporate commits an offence against this Act, then, without limiting section 12 of the Criminal Code:

- (a) the person who, at the time the offence is committed, is secretary or an executive officer of the body corporate; and
- (b) every person who, at the time the offence is committed, manages or acts or takes part in the management, administration or government of the business of the body corporate in the Territory,

is, subject to subsection (3), taken:

- (c) to have committed the offence; and
- (d) to be criminally responsible for the act or omission that constitutes the offence,

and, notwithstanding any other rule of law or practice, may be charged with and convicted of the offence.

- (2) This section does not limit or affect in any way the liability of a body corporate to be charged with and convicted of an offence against this Act.
- (3) It is a defence to a prosecution for an offence against this Act brought against a person referred to in subsection (1)(a) or (b) to prove that the offence was committed without that person's consent or connivance and that the person exercised due diligence to prevent the commission of the offence.

#### **181 Power to request name and address by police officers**

- (1) A member of the Police Force may, in connection with the exercise of the powers or the discharge by the member of any duties under this Act, request a person to state the person's full name, address and date of birth or any of those particulars.
- (2) If a member of the Police Force suspects, on reasonable grounds, that any of the particulars stated following a request under subsection (1) is false, the member may request evidence of the correctness of the particulars.
- (3) A person requested under this section to state the person's name, address and date of birth who:
  - (a) fails to immediately state those particulars; or
  - (b) states false particulars,is guilty of an offence.  
Penalty: \$10,000 or imprisonment for 2 years.
- (4) A person requested under this section to produce evidence of the correctness of particulars who:
  - (a) fails to produce the evidence; or
  - (b) produces false evidence with respect to those particulars,

is guilty of an offence.

Penalty: \$10,000 or imprisonment for 2 years.

(5) A member of the Police Force may arrest without warrant a person who, when requested under this section:

(a) to state the person's name, address and date of birth or any of those particulars; or

(b) to produce evidence of the correctness of any such particulars,

fails to do so or states a name, address or date of birth or produces evidence that, in the opinion of the member, is false.

(6) A member of the Police Force who makes a request of a person under this section shall warn the person when making the request that failure to comply with the request or to state false particulars or to produce false evidence with respect to the particulars requested is an offence against this Act.

## **182 Fingerprints and the like**

(1) Where a person has been arrested for an offence or an attempt to commit an offence against section 120(1) or (2), 137(1), 176 or 177, a member of the Police Force at the police station to which the person is taken after arrest, or where the person is in custody, may take all such particulars as the member considers necessary for the identification of the person, including the person's voice print, photograph, fingerprints, palm prints, footprints, toe prints and handwriting.

(2) In taking those particulars (other than any voice print or handwriting), such force as is reasonable in the circumstances may be used.

(3) A court that convicts a person who appears personally before it of an offence or an attempt to commit an offence against section 120(1) or (2), 137(1), 176 or 177 may, in its discretion, order that person into the custody of a member of the Police Force for the purpose of obtaining any particulars referred to in subsection (1).

(4) A member of the Police Force referred to in subsection (3) and any other member acting in aid of that member shall take the person to a place where those particulars can adequately be taken and take those particulars and may, for that purpose, use such force as is reasonable in the circumstances.

- (5) Where a person is found not guilty of an offence or an attempt to commit an offence against section 120(1) or (2), 137(1), 176 or 177, any voice print, photograph, fingerprints, palm prints, footprints, toe prints or handwriting previously taken under this section in relation to the alleged offence shall, on written request by the person, be destroyed in the person's presence or in the presence of a person nominated by the person.

### **183 Claims of privilege in proceedings for offences**

- (1) In proceedings for an offence against this Act, a prosecutor or a witness for the prosecution shall not be compelled to disclose information, or produce any document containing the information, where the information may be subject to a genuine claim of privilege under any Act or law.
- (2) Except as provided in subsection (1), in proceedings for an offence against this Act a prosecutor or a witness for the prosecution, on application by or on behalf of the defendant, may be compelled to disclose to the court information relevant to the proceedings or produce any document containing information relevant to the proceedings.
- (3) The court in the interests of justice, having regard to all the circumstances of the proceedings, shall determine if the information is to be disclosed, or the document produced, to the defendant or the defendant's legal practitioner.

### **184 Protection from liability**

- (1) This section applies to the following persons:
- (a) the Territory;
  - (b) the Commission;
  - (c) a person who is or has been the Director;
  - (d) a person who is or has been an inspector;
  - (e) a person who is or has been engaged in the administration or enforcement of this Act.
- (2) No civil or criminal liability (whether personal or vicarious) attaches to a person to whom this section applies for an act done in good faith:
- (a) in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act; or

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- (b) in compliance with or purported compliance with a requirement under this Act

### **185 Prosecution of offenders**

- (1) An offence against this Act may be prosecuted at any time.
- (2) The conviction or acquittal of a person of an offence against this Act does not:
  - (a) prevent a further prosecution and conviction in respect of a continuation of the offence after the date on which the person was convicted or acquitted;
  - (b) extinguish any obligation or liability imposed on the person under this Act; or
  - (c) prevent the imposing of any other penalty on, or the taking of any other action against, the person under this Act.

### **186 Institution of proceedings**

Proceedings for an offence against this Act may be instituted only by a member of the Police Force or the Director.

### **187 Forfeiture**

- (1) A court that convicts a person of an offence against this Act may order to be forfeited to the Territory:
  - (a) anything seized under section 178; and
  - (b) any article, records or other thing, seized and retained under section 162(1)(f) or (3)(c) and detained under section 162(4), relating to or connected with the commission of the offence of which the person has been convicted.
- (2) Where a person charged with an offence against this Act is not convicted of any offence, the court may order to be forfeited to the Territory any article, records or other thing, seized and retained under section 162(1)(f) or (3)(c) and detained under section 162(4), that was or were found in the possession or under the control of that person.
- (3) Anything forfeited to the Territory under this section shall be dealt with or disposed of in such way as the Minister directs.



**188 Service of documents**

Where under this Act a document of any kind is required to be served on or given to a person it may be served or given:

- (a) by delivering it to the person;
- (b) by posting it to the person's last-known place of business or residence;
- (c) by leaving it at the person's last-known place of business or residence with a person who is apparently over the age of 16 years and living or working there; or
- (d) in the case of a corporation, by delivering or posting it to its registered office in the Territory or otherwise as provided by the Corporations Act 2001.

**189 Evidence in proceedings**

- (1) In proceedings in respect of an offence against this Act:
  - (a) a document purporting to be a copy of a document served on or given to a person under this Act or of a licence issued under this Act is evidence of the document of which it purports to be a copy and, in the absence of evidence to the contrary, is conclusive evidence; and
  - (b) a certificate, purporting to be signed by the Director, certifying that at a specified time or during a specified period:
    - (i) there was or was not in force under this Act a licence, approval, authorisation or exemption;
    - (ii) a person was or was not a recognised manufacturer or supplier of gaming machines or a recognised supplier of restricted components;
    - (iii) premises were or were not licensed premises;
    - (iv) a person was or was not licensed under this Act;
    - (v) a named person was, or was not, an inspector; or
    - (vi) a determination, declaration, approval, permission or direction was, or was not, in force,

is evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate.

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- (2) Where a person observes an incident the fact that the observation was made by means of a camera, television set, video display unit or other electronic medium and not directly does not of itself render inadmissible any evidence that the person may give relating to the observation.

**190 Disclosure of criminal history**

Subject to the *Criminal Records (Spent Convictions) Act*, a person who:

- (a) is an applicant for a licence under Part 3 or 4;
- (b) is the secretary or an executive officer of a body corporate that is an applicant for a licence under Part 3 or 4;
- (c) submits a tender in response to a call under section 129(1);
- (d) is the secretary or an executive officer of a body corporate that submits a tender in response to a call under section 129(1); or
- (e) is required to submit information or material, or additional information or material, under section 25(8), 45(2), 64(3), 75(2), 118(2) or 130(3);

shall, if required for the purposes of this Act, disclose:

- (g) the person's criminal history with respect to contraventions of any provision of law, whether committed in the Territory or elsewhere; and
- (h) convictions recorded against the person in respect of contraventions of any provision of law, whether committed in the Territory or elsewhere, that under any law are taken not to be convictions.

Penalty: \$10,000 or imprisonment for 2 years.

**191 Approval of terminating date for financial year**

The Director may approve a date other than 30 June as the termination date of a financial year which may be for a period longer or shorter than one year, but not longer than 18 months, ending on the date so approved.

**192 Refund of amounts in certain circumstances**

The Director may refund:

- (a) amounts paid to the Director in error; or

- (b) a fee paid in relation to an application under this Act where:
  - (i) in the opinion of the Director no substantial expense has been incurred by the Director in regard to such application; and
  - (ii) the applicant or a person acceptable to the Director makes a written request for the application not to proceed.

### **193 Review of decision of Director**

- (1) A person aggrieved by a decision by the Director under this Act (other than Part 3) may apply to the Gaming Control Commission established by the *Gaming Control Act* for it to review the decision.
- (2) For the purposes of a review under this section, the *Gaming Control Act* and the Regulations made under that Act apply to and in relation to the review as if the review was a review of a decision of the Director relating to the administration of gaming control under section 13(1)(h) of that Act.
- (3) In respect of a review under this section, the Gaming Control Commission shall be constituted in the same way as if the review was a review under section 13(1)(h) of the *Gaming Control Act* and it has the same powers and functions as it has in respect of a review of a decision of the Director under section 13(1)(h).

### **193A Codes of practice**

- (1) For the purpose of providing practical guidance to persons granted licences under this Act on any matter relating to this Act, the Minister may, by notice in the *Gazette*, approve a code of practice.
- (2) A code of practice may consist of a code, standard, rule, specification or provision relating to matters in this Act formulated, prepared or adopted by the Minister and may apply, incorporate or refer to a document formulated or published by a body or authority as in force at the time the code of practice is approved or as amended, formulated or published from time to time.
- (3) A notice under subsection (1) must indicate where a copy of the code of practice to which it relates, and all documents incorporated or referred to in the code, may be inspected by members of the public and the times during which they may be inspected.

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- (4) A person who is the holder of a licence granted under this Act must not contravene or fail to comply with a code of practice approved under this section.

Penalty: \$10 000 or imprisonment for 2 years.

## **194 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) The Regulations may make provision for or in relation to:

- (a) arrangements and procedures for the taking of fingerprints and palm prints of an applicant for a repairer's licence or machine manager's licence;
- (b) the activities of listed persons or holders of licences under this Act;
- (c) forms to be used for the purposes of this Act;
- (d) the control of the premises of licensed repairers or licensed service contractors;
- (e) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of gaming equipment and restricted components;
- (f) the form and way of applications for approval of premises used in connection with the manufacture, assembly, storage or handling of gaming machines or restricted components;
- (g) the different categories of licensed premises;
- (h) the restrictions or entitlements which apply to different categories of licensed premises;
- (j) any matter or thing in relation to the administration of this Act in respect of which a fee is payable and prescribing the amount of such fee;
- (k) prescribing, where not provided in this Act, when a fee may be payable for any service or act carried out or undertaken and the amount of such fee;

- (m) matters to enable the proper conduct of gaming;
  - (n) provision of signs and notices in licensed premises;
  - (p) the control of advertising or promotions by any licensee, recognised manufacturer or supplier of gaming machines or other person in relation to gaming machines, gaming and the conduct of gaming;
  - (q) applications and fees with respect to the approval of electronic monitoring and centralised credit systems;
  - (r) the keeping of accounts with financial institutions by licensees;
  - (s) the Director's obligations to licensees in relation to the providing of gaming equipment;
  - (t) identification of machine managers and employees of licensees;
  - (u) the conduct and proceedings of meetings of the Commission; and
  - (w) offences against the regulations, including regulatory offences, and prescribing penalties, not exceeding \$5,000, for those offences.
- (3) The Regulations may:
- (a) prescribe the maximum number of gaming machines for a locality or for the Territory or a method of calculating the maximum number of gaming machines for a locality or for the Territory;
  - (b) provide for the Commission to declare a number prescribed under paragraph (a) and to declare the period during which that number has effect; or
  - (c) make provision in the event that a number prescribed under paragraph (a) is less than the number of gaming machines in a locality or in the Territory.
- (4) The Regulations may:
- (a) prohibit the grant of a gaming machine licence to a club that is within a specified distance of a casino;
  - (b) regulate the transfer of ownership of gaming machines from the Territory to another person, which may include imposing fees or charges in relation to the transfer;

- (c) provide for the rights and obligations of licensees in relation to gaming machines that are not transferred from the Territory to another person, which may include imposing fees or charges in relation to the machines;
- (d) provide for the rights and obligations of licensees in relation to gaming machines owned by the licensees;
- (e) regulate the disposal or transfer of gaming machines by or on behalf of licensees;
- (f) regulate the financing of gaming machines and finance providers in relation to finance provided for gaming machines;
- (g) regulate monitoring systems and monitoring providers;
- (h) prescribe the information to be provided to the Director by monitoring providers, licensed repairers, listed persons or any other persons who are licensed or otherwise authorised under this Act;
- (i) prescribe the information to be provided to the Director about licensed premises;
- (j) provide for records to be kept in a particular form, including an electronic form;
- (k) provide for requirements in relation to the labels and seals to be affixed to gaming machines, including procedures and conditions for the use of labels and seals and procedures to account for labels and seals;
- (l) provide for returns to players from gaming machines, including what constitutes a return and prescribing a minimum rate of return;
- (m) provide for a maximum fee per gaming machine that may be charged by a licensed service contractor or licensed monitoring provider;
- (n) provide for the fees that may be charged by the Director for services relating to the supply of gaming machines;
- (o) provide for a bond or other security in respect of a monitoring provider's licence, including the administration of the bond or security; or
- (p) provide for methods for, and other procedures relating to, the payment of taxes, levies, fees, costs, charges, penalties and other amounts payable under this Act.

- (5) The Regulations may:
- (a) require a matter or thing to be approved by or done to the satisfaction of the Commission or the Director; or
  - (b) confer a discretion on the Commission or the Director.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Gaming Machine Act 1995 (Act No. 50, 1995)***

Assent date	22 November 1995
Commenced	19 December 1995 ( <i>Gaz S43</i> , 19 December 1995)

***Statute Law Revision Act (No. 2) 1999 (Act No. 48, 1999)***

Assent date	10 November 1999
Commenced	10 November 1999

***Gaming Machine Amendment Act 1999 (Act No. 69, 1999)***

Assent date	17 December 1999
Commenced	14 February 2000 (s 2, s 2 <i>Northern Territory Licensing Commission Act 1999</i> (Act No. 67, 1999) and <i>Gaz G5</i> , 9 February 2000, p 6)

***Gaming Machine Amendment Act 2001 (Act No. 4, 2001)***

Assent date	22 March 2001
Commenced	18 May 2001 ( <i>Gaz S24</i> , 18 May 2001)

***Gaming Machine Amendment Act (No. 2) 2001 (Act No. 5, 2001)***

Assent date	22 June 2001
Commenced	29 June 2001 ( <i>Gaz S34</i> , 29 June 2001)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and <i>Cth Gaz S285</i> , 13 July 2001)

***Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)***

Assent date	11 December 2001
Commenced	s 9(2): 29 June 2001; rem: 11 December 2001 (s 2(3), s 2 <i>Gaming Machine Amendment Act (No. 2) 2001</i> (Act No. 5, 2001) and <i>Gaz S34</i> , 29 June 2001)



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**Gaming Machine Amendment Act 2002 (Act No. 55, 2002)**

Assent date 10 October 2002  
 Commenced 8 January 2003 (s 2, s 2 *Gaming Control Amendment Act 2002* (Act No. 56, 2002) and Gaz G1, 8 January 2003, p 2)

**Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)**

Assent date 7 November 2002  
 Commenced 7 November 2002

**Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)**

Assent date 7 January 2003  
 Commenced 17 March 2004 (Gaz G11, 17 March 2004, p 8)

**Statute Law Revision Act 2004 (Act No. 18, 2004)**

Assent date 15 March 2004  
 Commenced 5 May 2004 (s 2(1), s 2 *Associations Act 2003* (Act No. 56, 2003) and Gaz G18, 5 May 2004, p 2)

**Gaming Machine Amendment Act 2004 (Act No. 45, 2004)**

Assent date 14 July 2004  
 Commenced 1 September 2004 (Gaz G35, 1 September 2004, p 8)

**Statute Law Revision Act 2005 (Act No. 44, 2005)**

Assent date 14 December 2005  
 Commenced 14 December 2005

**Statute Law Revision Act 2007 (Act No. 4, 2007)**

Assent date 8 March 2007  
 Commenced 8 March 2007

**Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)**

Assent date 17 May 2007  
 Commenced s 10: 1 July 2007 (Gaz G26, 27 June 2007, p 3);  
 rem: 17 May 2007

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 9 *Gaming Machine Amendment Act 1999* (Act No. 69, 1999)  
 s 70 *Gaming Machine Amendment Act (No. 2) 2001* (Act No. 5, 2001)  
 ss 9 and 10 *Gaming Machine Amendment Act 2002* (Act No. 55, 2002)  
 s 71 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*  
 (Act No. 1, 2004)

### 4 LIST OF AMENDMENTS

s 2A ins No. 5, 2001, s 4  
 sub No. 45, 2004, s 4  
 s 3 amd No. 48, 1999, s 3; No. 69, 1999, s 4; No. 5, 2001, s 5; No. 55, 2002, s 4;  
 No. 45, 2004, s 5  
 s 5 amd No. 1, 2004, s 62  
 s 6A ins No. 5, 2001, s 6  
 ss 9 – 16 rep No. 69, 1999, s 5  
 s 17 amd No. 45, 2004, s 6  
 s 18 rep No. 69, 1999, s 5

## ENDNOTES

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s 20	amd No. 5, 2001, s 7
s 21	rep No. 69, 1999, s 5 ins No. 5, 2001, s 8
s 22	amd No. 5, 2001, s 9; No. 45, 2004, s 7
s 22A	ins No. 5, 2001, s 10
s 24	amd No. 48, 1999, s 3; No. 4, 2001, s 4; No. 5, 2001, s 11; No. 18, 2004, s 3
s 24A	ins No. 45, 2004, s 8
s 25	amd No. 4, 2001, s 5; No. 5, 2001, s 12; No. 45, 2004, s 9
s 27	amd No. 4, 2001, s 6; No. 5, 2001, s 13
s 28	amd No. 5, 2001, s 14
s 29	amd No. 4, 2001, s 7; No. 5, 2001, s 15
s 32	sub No. 5, 2001, s 16
s 35	amd No. 4, 2007, s 7
s 36	sub No. 5, 2001, s 17; No. 55, 2002, s 5; No. 45, 2004, s 10
s 38	amd No. 69, 1999, s 6
s 39	amd No. 4, 2001, s 8; No. 5, 2001, s 18
s 40	amd No. 4, 2001, s 9; No. 5, 2001, s 19
s 40A	ins No. 4, 2001, s 10
s 41	amd No. 4, 2001, s 11; No. 5, 2001, s 20; No. 45, 2004, s 11
ss 41A – 41B	ins No. 45, 2004, s 12
s 42	amd No. 69, 1999, s 7; No. 4, 2001, s 12; No. 5, 2001, s 21
s 43	amd No. 4, 2001, s 13; No. 44, 2005, s 35
s 44	amd No. 5, 2001, s 22; No. 17, 2001, s 21
s 45	amd No. 45, 2004, s 13
s 47	amd No. 4, 2001, s 14; No. 5, 2001, s 23
s 49	amd No. 5, 2001, s 24; No. 45, 2004, s 14
s 53	amd No. 4, 2001, s 15; No. 5, 2001, s 25
pt IV hdg	amd No. 5, 2001, s 26
s 57A	ins No. 5, 2001, s 27
ss 58 – 59	sub No. 5, 2001, s 27
s 59A	ins No. 5, 2001, s 27
s 62	amd No. 48, 1999, s 3; No. 5, 2001, s 28
s 63	amd No. 5, 2001, s 29
s 64	amd No. 5, 2001, s 30; No. 45, 2004, s 15
s 68	amd No. 5, 2001, s 31
s 69	sub No. 5, 2001, s 32
s 71	amd No. 5, 2001, s 33
s 74	amd No. 5, 2001, s 34; No. 17, 2001, s 21
s 75	amd No. 45, 2004, s 16
s 76	amd No. 5, 2001, s 35
s 77	amd No. 5, 2001, s 36; No. 62, 2001, s 9
s 78	amd No. 5, 2001, s 37
s 79	amd No. 5, 2001, s 38
s 82A	ins No. 5, 2001, s 39
s 83	amd No. 4, 2001, s 16 sub No. 5, 2001, s 40
s 84	amd No. 4, 2001, s 17
s 86	amd No. 4, 2001, s 18 rep No. 5, 2001, s 41
s 93	rep No. 5, 2001, s 41
s 94	amd No. 5, 2001, s 42
s 95	amd No. 5, 2001, s 43
s 99	amd No. 4, 2001, s 19
s 116	amd No. 4, 2001, s 20 sub No. 5, 2001, s 44 amd No. 62, 2001, s 9
s 117	sub No. 5, 2001, s 44
s 118	amd No. 45, 2004, s 17

## ENDNOTES

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s 120	amd No. 5, 2001, s 45
s 121	amd No. 4, 2001, s 21
s 121A	ins No. 4, 2001, s 22
s 123	amd No. 4, 2001, s 23
s 124A	ins No. 5, 2001, s 46
s 125	amd No. 4, 2001, s 24; No. 5, 2001, s 47
s 126	amd No. 4, 2001, s 25
s 128	amd No. 4, 2001, s 26; No. 5, 2001, s 48
s 129	sub No. 5, 2001, s 49
s 130	rep No. 5, 2001, s 49
s 131	amd No. 5, 2001, s 50
s 133	amd No. 4, 2001, s 27; No. 5, 2001, s 51
s 134	amd No. 4, 2001, s 28; No. 5, 2001, s 52
s 135	amd No. 4, 2001, s 29; No. 5, 2001, s 53
s 136	amd No. 5, 2001, s 54
s 136A	ins No. 5, 2001, s 55
s 137	amd No. 5, 2001, s 56
s 138	amd No. 4, 2001, s 30
s 140	amd No. 4, 2001, s 31
s 146	amd No. 17, 2001, s 21; No. 45, 2004, s 18
s 148	amd No. 5, 2001, s 57
s 149	amd No. 4, 2001, s 32; No. 5, 2001, s 58
s 149A	ins No. 4, 2001, s 33 amd No. 5, 2001, s 59
s 150	amd No. 5, 2001, s 60; No. 55, 2002, s 6
s 151	rep No. 55, 2002, s 7
s 152	amd No. 4, 2001, s 34
s 153	amd No. 5, 2001, s 61
s 156	amd No. 5, 2001, s 62; No. 55, 2002, s 8; No. 4, 2007, s 7
s 157	amd No. 4, 2001, s 35; No. 5, 2001, s 63
s 158	amd No. 4, 2001, s 36
s 161	amd No. 5, 2001, s 64
s 161A	ins No. 5, 2001, s 65
s 162	amd No. 4, 2001, s 37
s 164	amd No. 69, 1999, s 8
s 165	amd No. 5, 2001, s 66
s 168	amd No. 4, 2001, s 38
s 175	amd No. 5, 2001, s 67
s 183	amd No. 7, 2007, s 16
s 184	sub No. 5, 2001, s 68
s 188	amd No. 17, 2001, s 21
s 193A	ins No. 45, 2004, s 19
s 194	amd No. 5, 2001, s 69