

NORTHERN TERRITORY OF AUSTRALIA
GAMING CONTROL AMENDMENT ACT 1998

No. 38 of 1998

TABLE OF PROVISIONS

Section

1. Short title
2. Principal Act
3. Definitions
4. New Division:

"Division 5 — Internet Gaming

- "47A. DEFINITION
 - "47B. APPLICATION FOR LICENCE TO CONDUCT INTERNET GAMING
 - "47C. MINISTER MAY ENTER INTO AGREEMENT
 - "47D. MINISTER MAY GRANT LICENCE
 - "47E. DURATION OF LICENCE
 - "47F. CANCELLATION OR SUSPENSION OF LICENCE
 - "47G. APPEAL AGAINST CANCELLATION OR SUSPENSION
 - "47H. CONDUCT OF BUSINESS UNDER LICENCE
 - "47J. ASSIGNMENT OF LICENCE
 - "47K. SURRENDER OF LICENCE
 - "47M. FEES
 - "47N. TAXES
 - "47P. POWERS OF DIRECTOR IN RESPECT OF INTERNET GAMING BUSINESS
 - "47Q. ENTRY OF PLACE BY DIRECTOR, GAMING INSPECTORS, &c."
5. Penalties
 6. Regulations



NORTHERN TERRITORY OF AUSTRALIA

No. 38 of 1998

AN ACT

to amend the *Gaming Control Act*

[Assented to 27 May 1998]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Gaming Control Amendment Act 1998*.

2. PRINCIPAL ACT

The *Gaming Control Act* is in this Act referred to as the Principal Act.

3. DEFINITIONS

Section 3 of the Principal Act is amended —

- (a) by inserting "or 5" after "Division 4" in the definition of "agreement"; and
- (b) by inserting "or 5" after "Division 4" in the definition of "Licensee".

Gaming Control Amendment

4. NEW DIVISION

The Principal Act is amended by inserting in Part 4 after Division 4 the following:

"Division 5 — Internet Gaming

"47A. DEFINITION

"In this Division, 'internet gaming business' includes —

- (a) conducting a lottery;
- (b) conducting a game; and
- (c) the sale of tickets in a lottery or foreign lottery,

by means of the internet but does not include —

- (d) gaming conducted in accordance with this Act by an approved association; and
- (e) a trade lottery conducted in accordance with this Act.

"47B. APPLICATION FOR LICENCE TO CONDUCT INTERNET GAMING

"(1) A person may apply to the Minister to be granted a licence to conduct an internet gaming business.

"(2) An application under this section is to be in a form or to the effect of the form approved by the Minister and is to be accompanied by the prescribed fee, if any.

"(3) An application under this section must contain or be accompanied by any additional information that the Minister may request.

"(4) If a requirement made by this section is not complied with, the Minister may refuse to consider the application.

"(5) If the Minister refuses to consider an application or an application is withdrawn by the applicant before it is considered by the Minister, the Minister, at his or her discretion, may refund the whole or part of the application fee.

Gaming Control Amendment

"47C. MINISTER MAY ENTER INTO AGREEMENT

"(1) Notwithstanding any other law of the Territory, the Minister may negotiate and enter into an agreement with a person relating to the conduct by the person of an internet gaming business in or from the Territory and the manner in which the business may be conducted.

"(2) The Minister may carry out, or cause to be carried out, any investigations and inquiries that the Minister considers necessary for the purposes of determining whether to enter into an agreement under subsection (1) or to grant a licence under section 47D.

"(3) An investigation or inquiry under subsection (2) may include an investigation or inquiry to determine whether a person or an associate of a person is a suitable person to be concerned in or associated with the internet gaming business proposed to be conducted.

"(4) In determining whether to enter into an agreement under subsection (1), the Minister is to have regard to the following:

- (a) whether the person is of good repute, having regard to character, honesty and integrity;
- (b) whether the person is of sound and stable financial background;
- (c) whether the person has or is able to obtain financial resources that are adequate to ensure the financial viability of the internet gaming business proposed to be conducted and to obtain the services of persons who have sufficient experience in the management and operation of the business;
- (d) whether the person has sufficient business ability to establish and maintain the business proposed to be conducted;
- (e) whether the person or any person to be involved in the management or operation of the internet gaming business proposed to be conducted has any association with a person, body or association who or which, in the opinion of the Minister, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;

Gaming Control Amendment

- (f) whether each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Minister to be associated or connected with the ownership, administration or management of the operations or business of the person is a suitable person to act in that capacity.

"(5) The Minister must, not later than 3 sitting days of the Legislative Assembly after entering into an agreement under subsection (1), cause a copy of the agreement to be tabled in the Assembly.

"47D. MINISTER MAY GRANT LICENCE

"(1) Where the Minister enters into an agreement with a person under section 47C, the Minister may grant a licence under this Division to the person to conduct an internet gaming business in or from the Territory and for other purposes or activities associated with that business that the Minister thinks fit and specifies in the licence.

"(2) Subject to this Act, a licence granted under this Division is subject to the terms and conditions that are specified in the agreement and in the licence document.

"47E. DURATION OF LICENCE

"(1) Subject to subsection (2), a licence granted under this Division remains in force for the period specified in the licence but may be renewed.

"(2) A licence under this Division ceases to be in force if, before it expires --

- (a) it is terminated in accordance with the agreement;
- (b) the Licensee surrenders it; or
- (c) it is cancelled in accordance with this Act.

"47F. CANCELLATION OR SUSPENSION OF LICENCE

"(1) Subject to subsection (2), the Minister may --

- (a) cancel a licence granted under this Division; or
- (b) suspend a licence, or the agreement pursuant to which it was granted, for any period, not exceeding 6 months, that the Minister thinks fit.

"(2) The Minister must not cancel, suspend or vary a licence granted under this Division unless the Minister is satisfied that the Licensee has --

Gaming Control Amendment

- (a) failed to comply with a law of the Territory in relation to the conduct of the business to which the licence relates;
- (b) failed to comply with a condition to which the licence is subject;
- (c) failed promptly to pay a fee or tax in relation to the conduct of the business payable under a law of the Territory or in accordance with a condition to which the licence is subject;
- (d) failed to comply with a direction lawfully given by the Minister or the Director;
- (e) been convicted of an offence that the Minister considers, in the Minister's absolute discretion, to be of such a nature as would bring the licence into disrepute; or
- (f) in the opinion of the Minister, acted in a manner or condoned an action that is contrary to the good repute of a licence and that has brought the conduct of the business to which it relates into disrepute.

"(3) Where the Minister suspends a licence under this section, the licence is of no force or effect during the period of the suspension.

"(4) Nothing in this section is to be construed as extending the term of a licence suspended under this section.

"(5) In subsection (2), a reference to a Licensee includes, for the purposes of paragraphs (e) and (f), where the Licensee is a corporation, a director of the corporation and the person in charge of the operations of the business to which it relates.

"47G. APPEAL AGAINST CANCELLATION OR SUSPENSION

"(1) A Licensee may appeal to the Supreme Court against a cancellation or suspension of a licence under section 47F.

"(2) In deciding an appeal under this section, the Supreme Court —

- (a) has the same powers as the Minister; and
- (b) is not bound by the rules of evidence.

"(3) An appeal under this section is by way of a rehearing.

Gaming Control Amendment

"(4) In an appeal under this section, the Supreme Court may —

- (a) confirm the decision;
- (b) set aside the decision and substitute another decision it considers appropriate; or
- (c) set aside the decision and return the matter to the Minister with the directions it considers appropriate.

"(5) If the Supreme Court substitutes another decision for that of the Minister, the substituted decision is, for the relevant provisions of this Division, taken to be that of the Minister.

"47H. CONDUCT OF BUSINESS UNDER LICENCE

"Subject to this Act, nothing in a law of the Territory prevents a Licensee or a person employed by a Licensee from conducting the business permitted by the licence in accordance with the terms and conditions to which the licence is subject and, to the extent that a condition would, but for this section, be in conflict with a law of the Territory, the law is of no force or effect.

"47J. ASSIGNMENT OF LICENCE

"(1) Subject to subsection (2), a licence granted under this Division or an interest (whether beneficial or otherwise) in a licence may be assigned with the consent of the Minister.

"(2) The Minister may, in the Minister's absolute discretion, consent or refuse to consent to the assignment of the licence or interest.

"47K. SURRENDER OF LICENCE

"Subject to the Licensee having paid all outstanding fees, taxes and charges payable in relation to the Licensee's conduct of the business to which the licence relates and to the payment to the Territory of any prizes that have been won but are unclaimed or unpaid, the Licensee may, by notice in writing to the Minister, surrender a licence granted under this Division and the licence ceases to have effect on its being surrendered.

"47M. FEES

"On being granted a licence under this Division, the Licensee must pay to the Minister the fee, if any, for the licence specified in the agreement.

Gaming Control Amendment

"47N. TAXES

"(1) Without limiting a Licensee's liability to pay any other tax under a law of the Territory, the Licensee must pay to the Minister, as a tax or levy, the amounts and at the times that are specified in, or calculated in accordance with, the agreement.

"(2) Part 6 of the *Taxation (Administration) Act* applies to and in relation to a tax or levy that is due and payable under subsection (1) and a reference in that Part to a duty or tax is to be read and construed as a reference to a tax or levy under that subsection.

"47P. POWERS OF DIRECTOR IN RESPECT OF INTERNET GAMING BUSINESS

"(1) The Director may approve the manner and form in which the records of an internet gaming business conducted under a licence granted under this Division are to be kept.

"(2) For the purposes of this Act, the Director may appoint a person to carry out the functions that the Director may direct relating to the supervision and control of the internet gaming business conducted under a licence granted under this Division.

"(3) The Director may, from time to time, direct a Licensee to provide information relating to the internet gaming business conducted under the licence held by the Licensee that the Director may require.

"(4) The Director may, from time to time, direct a Licensee to adopt, vary, cease or refrain from a practice or proposed action in respect of the internet gaming business conducted under the licence held by the Licensee.

"(5) A Licensee must keep the records of the internet gaming business conducted under the licence held by the Licensee in the manner and form approved under subsection (1).

"(6) A Licensee must not contravene or fail to comply with a direction given under this section.

"(7) The Director may approve —

(a) the rules and procedures of a game or lottery conducted under a licence granted under this Division; and

Gaming Control Amendment

- (b) the equipment that may be used in playing a game or lottery conducted under a licence granted under this Division.

"(8) The Director may give directions and issue guidelines to a Licensee relating to the operation and playing of a game or lottery conducted under the licence.

"47Q. ENTRY OF PLACE BY DIRECTOR, GAMING INSPECTORS, &c.

"(1) The Director, a gaming inspector or an approved person may, at any time, enter and remain in a place where an internet gaming business is conducted under a licence granted under this Division or a place that is associated or used in conjunction with the business for the following purposes:

- (a) to observe the operations of the business;
- (b) to record the operations of the business;
- (c) to ascertain whether this Act and the agreement relating to the business are being complied with;
- (d) to perform any other functions of the Director, the gaming inspector or the approved person.

"(2) A person must not, without reasonable excuse, obstruct or hinder the Director, a gaming inspector or an approved person in the exercise of his or her powers under this Act."

5. PENALTIES

Section 74 of the Principal Act is amended by inserting ", 47P, 47Q" after "46Q".

6. REGULATIONS

Section 80 of Principal Act is amended by inserting in subsection (2)(c) "or 5" after "Division 4".
