

NORTHERN TERRITORY OF AUSTRALIA

GAMING CONTROL ACT 1993

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No. 56 of 1993

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TABLE OF PROVISIONS

Section

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART 2 - ADMINISTRATION

4. Director of Gaming
5. Gaming Control Commission
6. Tenure of office
7. Resignation and dismissal
8. Leave of absence
9. Meetings
10. Protection of members, &c.
11. Deputies of members
12. Disclosure of interest
13. Powers and functions of Commission
14. Delegations
15. Gaming Inspectors

PART 3 - CASINOS

*Division 1 - Casino Agreements and Licences*

16. Application for casino licence
17. Minister may enter into agreement
18. Minister may grant casino licence
19. Duration of casino licence
20. Cancellation or suspension of casino licence

*Division 2 - Conduct and Operation of Casino*

21. Conduct of casino
22. Assignment of casino licence
23. Surrender of casino licence
24. Fees
25. Taxes
26. Games in casinos
27. Playing of approved games
28. Detention of suspected person in casino
29. Conservation of evidence
30. Breach of rules, conditions or guidelines of games by operator
31. Powers of Director in respect of casino operations
32. Liquor licence at casino

- 33. Right of entry to casino
- 34. Persons under 18 years gaming
- 35. Entry of casino by Director, Gaming Inspectors, &c.

#### PART 4 - LOTTERIES

##### *Division 1 - Conduct of Lotteries*

- 36. Conduct of Lottery
- 37. Distribution of property among owners

##### *Division 2 - Types of Lotteries*

- 38. Lotteries by or for approved associations
- 39. Trade Lotteries
- 40. Foreign Lotteries

##### *Division 3 - Territory Lotteries*

- 41. Territory-sponsored Lotteries
- 42. Director may conduct Lotteries
- 43. Lotteries Fund
- 44. Sports and Recreational Development Fund
- 45. Lotteries conducted by Director
- 46. Offences

#### PART 5 - GAMING

##### *Division 1 - Gaming Machines, Ticket Dispensing Machines and Games in Nature of Lottery*

- 47. Certain machines and certain games prohibited
- 48. Approved association may provide ticket dispensing machine
- 49. Gaming machines prohibited without permit
- 50. Gaming machine turnover levy and trust account
- 51. Director may make guidelines
- 52. Conduct of calcuttas, sweepstakes and bingo
- 53. Games in nature of lottery

##### *Division 2 - Control of Gaming*

- 54. Unlawful games
- 55. Organising, &c., unlawful game
- 56. Selling ticket, &c., in unlawful game
- 57. Playing at unlawful game
- 58. Advertising
- 59. False pretences
- 60. Place for unlawful gaming
- 61. Penalty for keeping place for unlawful gaming
- 62. Evidence that place used for unlawful gaming
- 63. Not necessary to prove that person was found playing for money, &c.
- 64. Effect of discovery of instruments of gaming
- 65. Evidence that place used as place for unlawful gaming

- 66. Evidence as to offences
- 67. Reasonable suspicion sufficient
- 68. Special powers relating to searches, &c.

#### PART 6 - MISCELLANEOUS

- 69. Cheating
- 70. Act not to extend to stakes payable to winner  
of lawful game or race
- 71. Secrecy
- 72. Liability of directors
- 73. Regulatory offences
- 74. Penalties
- 75. Prosecution of offenders
- 76. Institution of proceedings
- 77. Evidence in proceedings
- 78. Forfeiture
- 79. Protection of inspector, &c.
- 80. Regulations
- 81. Repeal
- 82. Savings and transitional

#### SCHEDULE





# NORTHERN TERRITORY OF AUSTRALIA

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No. 56 of 1993

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## AN ACT

to licence and control casinos and gaming,  
and for related purposes

[Assented to 5 October 1993]

**B**E 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:

### PART 1 - PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the *Gaming Control Act 1993*.

#### 2. COMMENCEMENT

This Act shall come into operation on the commencement of the *Racing and Gaming Authority Act*.

#### 3. DEFINITIONS

In this Act, unless the contrary intention appears -

"agreement", in relation to a casino licence, means the agreement in pursuance of which the licence was granted;

"amusement machine" means a mechanical, electrical or electronic machine or device, operated by the insertion of a coin or token or by the use of accrued credits, which is intended for the amusement of the player and from which the player can obtain nothing representing money, goods or any other benefit, other than the opportunity to continue to use the machine;

"approved" means approved by the Director;

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## *Gaming Control*

- "approved game" means a game approved under section 26;
- "Authority" means the Racing and Gaming Authority established by the *Racing and Gaming Authority Act*;
- "casino" means a place approved under section 18;
- "casino licence" means a casino licence granted under section 18;
- "Commission" means the Gaming Control Commission established by section 5;
- "Director" means the person who is the Director of Gaming under section 4;
- "foreign lottery" means a lottery conducted or to be conducted outside the Territory which is authorised by or under and conducted in accordance with the law of the country or the State or Territory of the Commonwealth in which it is conducted;
- "gaming" includes lotteries;
- "gaming inspector" means a gaming inspector appointed under section 15;
- "gaming machine" means a mechanical, electrical or electronic machine or device played, used or operated for the purpose of obtaining by chance or skill, or a combination of chance and skill, money, goods, services or credits, or tokens representing money, goods or services, and includes any equipment or devices used to link more than one gaming machine or that may influence or determine the outcome of a game and such other equipment or device that is prescribed;
- "gaming machine turnover levy" means the levy payable under section 50;
- "instrument of gaming" means anything used for the purposes of gaming and includes money, coins, notes, cheques, written acknowledgements of a debt and other writings for securing the payment of money, lists, cards and other documents relating to gaming, wheels, spinning jinnies, playing cards, housey cards, dice, dice boxes, balls, kips, counters, tables and anything declared by the Minister to be an instrument of gaming;

## *Gaming Control*

"lawful lottery" means a lottery authorised by and conducted in accordance with this Act;

"licensed employee" means an employee of a Licensee licensed under this Act;

"Licensee" means the person to whom a casino licence is granted or assigned;

"liquor" has the same meaning as in the *Liquor Act*;

"lottery" means a disposition of real or personal property or a share or interest in such property or of a right to a benefit or thing dependent on or to be determined, wholly or partly, by chance or such means as may be prescribed;

"member" means a member of the Commission appointed under section 5(2)(b);

"place" includes -

- (a) land;
- (b) a building, structure or erection of any kind, whether wholly or partly constructed or erected or in the course of construction or erection;
- (c) a room in a building, structure or erection;
- (d) a road, street, thoroughfare, alley or right of way;
- (e) a vehicle, vessel or aircraft; and
- (f) a tent, caravan, trailer or other conveyance;

"public place" includes -

- (a) a public place within the meaning of the *Summary Offences Act*;
- (b) a place regularly used by an association within the meaning of the *Associations Incorporation Act*; and
- (c) licensed premises within the meaning of the *Liquor Act*;

"ticket" means a chance in a lottery and includes a share in such a chance;

## *Gaming Control*

"ticket dispensing machine" means a machine or device which dispenses tickets or from which tickets may be obtained, but does not include a punchboard;

"trade lottery" means a lottery conducted for the purpose of promoting a product or business by a person in the course of carrying on his or her trade or business;

"valuable thing" includes a benefit or a promise, whether oral or in writing or conditional or absolute, to pay or give a valuable thing.

### PART 2 - ADMINISTRATION

#### 4. DIRECTOR OF GAMING

(1) There is a Director of Gaming who is -

- (a) the Chief Executive Officer of the Authority; or
- (b) a person appointed, in writing, by the Minister.

(2) For the purposes of subsection (1)(b), an appointment may be made by reference to a particular designation, office or position and an appointment so made shall be construed in accordance with section 38(3) of the *Interpretation Act*.

(3) The functions of the Director, in addition to those specifically conferred or imposed by or under this Act, are to inquire into -

- (a) the suitability of a Licensee, a proposed Licensee or a person to whom a casino licence is proposed to be transferred;
- (b) the suitability of a person to whom an interest (whether beneficial or otherwise) in a casino licence is proposed to be transferred or assigned;
- (c) the operations conducted in a casino to ensure that they are being conducted in accordance with this Act;
- (d) the suitability of a person involved, or proposing to become involved, in the management or operation of a casino; and
- (e) the suitability of a person proposing to conduct, or who is conducting, a business relating to gaming.



## *Gaming Control*

(4) The Director, when performing the functions conferred by subsection (3)(e), shall have regard to the matters specified in section 17(4) as if that subsection, with the necessary changes, applied to the Director.

(5) The Director has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of the Director's functions under this or any other Act.

(6) For the purposes of this section, the Director or a person authorised by the Director to exercise powers under this section -

- (a) may, at all reasonable times, enter a place;
- (b) shall have full and free access, at all reasonable times, to all books, documents and other papers at a place; and
- (c) may take extracts from and make copies of any books, documents or papers at a place.

(7) A person authorised under this section who enters a place in pursuance of this section is not authorised to remain at the place if, on request by the occupier of the place, the person does not produce a certificate signed by the Director certifying that the person is a person authorised to exercise powers under this section.

(8) A person shall not, without reasonable excuse, obstruct or hinder the Director or a person authorised under this section in the exercise of his or her powers under this section.

(9) For the purposes of this section, the Director may authorise a person to exercise powers under this section.

### 5. GAMING CONTROL COMMISSION

(1) There is established by this Act a commission to be known as the Gaming Control Commission.

(2) Subject to this Act, the Commission shall consist of -

- (a) the Chief Executive Officer of the Authority or his or her nominee who is the Chairperson of the Commission; and
- (b) 2 members appointed by the Minister.

## *Gaming Control*

(3) The exercise of the powers or the performance of the functions of the Commission is not affected, or shall not be brought into question, by reason only of there being a vacancy in the office of a member.

(4) The Minister shall, in writing, appoint a person to be the Deputy Chairperson of the Commission.

(5) The Deputy Chairperson shall act as Chairperson of the Commission when the Commission is performing its functions -

(a) under section 13(1)(h), where the decision under review is that of the Chairperson in his or her capacity as Director; or

(b) under section 13(1)(f) or (j).

(6) A reference in this Act (other than in section 9(4)) to the Chairperson of the Commission includes the Deputy Chairperson when acting as the Chairperson.

### 6. TENURE OF OFFICE

(1) Subject to this Part, the members and the Deputy Chairperson of the Commission shall be appointed for not longer than 3 years, but are eligible to be reappointed.

(2) Notwithstanding subsection (1), unless a member or the Deputy Chairperson of the Commission sooner vacates office or is removed from office under this Part, the member or Deputy Chairperson shall continue in office until a successor is appointed.

### 7. RESIGNATION AND DISMISSAL

(1) A member or the Deputy Chairperson of the Commission may resign from office by writing signed by the member or Deputy Chairperson and delivered to the Minister.

(2) The Minister may remove a member or the Deputy Chairperson of the Commission from office for inability, inefficiency, misbehaviour or physical or mental incapacity.

(3) Where -

(a) a member is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Commission; or

- (b) a member or the Deputy Chairperson of the Commission becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit,

the Minister shall terminate the appointment of the member or Deputy Chairperson.

#### 8. LEAVE OF ABSENCE

The Minister may grant leave of absence to a member or the Deputy Chairperson of the Commission.

#### 9. MEETINGS

(1) The Chairperson of the Commission shall convene such meetings of the Commission as are necessary for the exercise of its powers and the performance of its functions under this or any other Act but, in any case, not less than one meeting in any period of 3 months.

(2) At a meeting of the Commission -

(a) the Chairperson shall preside;

(b) the Chairperson and one member constitutes a quorum;

(c) questions arising shall be determined by a majority of the votes of the Chairperson and members present and voting and, in the event of an equality of votes, the Chairperson shall have a casting vote; and

(d) subject to this Act, the Commission shall determine its own procedures.

(3) The Commission shall keep records of its meetings.

(4) The Chairperson of the Commission shall not take part in any deliberation or decision of the Commission in respect of its functions -

(a) under section 13(1)(h), where the decision under review is that of the Chairperson in his or her capacity as Director; or

(b) under section 13(1)(f) or (j).

10. PROTECTION OF MEMBERS, &c.

No action or proceeding, civil or criminal, shall lie against the Chairperson of the Commission or a member for or in respect of an act or thing done or omitted to be done, whether under this or any other Act, in good faith by the Chairperson or member.

11. DEPUTIES OF MEMBERS

(1) The Minister may appoint a person to be the deputy of a member.

(2) The Minister may, at any time, terminate an appointment made under subsection (1).

(3) A person appointed under subsection (1) shall, in the event of the absence from a meeting of the Commission of the member for whom the person is the deputy, be entitled to attend that meeting and when so attending shall be deemed to be a member both for the purposes of this Act and the *Remuneration (Statutory Bodies) Act*.

(4) An act done by a person appointed as a deputy under subsection (1), in the person's capacity as a deputy, shall not, in any proceedings, be questioned on the ground that the occasion for the exercise of a power or the performance of a function had not arisen or had ceased.

12. DISCLOSURE OF INTEREST

(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he or she is not a director, shall, as soon as practicable after the relevant facts come to the attention of the member, disclose the nature of the interest at a meeting of the Commission.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Commission and the member making the disclosure shall -

(a) not, while the member has the interest, take part after the disclosure in any deliberation or decision; and

(b) be disregarded for the purpose of constituting a quorum,

of the Commission in relation to the matter.

## *Gaming Control*

### 13. POWERS AND FUNCTIONS OF COMMISSION

- (1) The functions of the Commission are -
  - (a) to do such things as it considers necessary or desirable for the proper regulation and control, in the interests of the public, of gaming;
  - (b) to investigate and make recommendations to the Minister on matters relating to the administration or operation of this Act;
  - (c) to undertake research and investigations into matters relating to gaming control, including the probity and financial security of organisations and persons involved in the business of gaming;
  - (d) to liaise with other gaming control agencies, whether in Australia or elsewhere, on matters relating to the administration, operation or control of gaming;
  - (e) to make recommendations to the Minister relating to games that may be played in a casino;
  - (f) to make recommendations to the Director relating to the rules under which games may be played in a casino;
  - (g) to monitor the implementation of guidelines for gaming control in the Territory;
  - (h) to review decisions of the Director relating to the administration of gaming control and make recommendations to the Minister and the Director in relation to those decisions;
  - (j) to review and determine complaints relating to the administration of gaming control;
  - (k) to advise the Minister on matters relating to gaming control; and
  - (m) to perform such other functions as are imposed on it by or under this or any other Act.

(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.

### 14. DELEGATIONS

(1) The Minister may, in writing, delegate to the Commission, the Director or a gaming inspector any of his or her powers and functions under this Act, other than this power of delegation or the power to enter into an agreement under section 17.

## *Gaming Control*

(2) The Commission or the Director may, in writing, delegate to a person any of its or his or her powers and functions under this Act, other than this power of delegation.

(3) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister, the Commission or the Director, as the case may be.

(4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister, the Commission or the Director, as the case may be.

### 15. GAMING INSPECTORS

(1) The Director may appoint a person who, in the opinion of the Director, is of good repute, having regard to character, honesty and integrity, to be a gaming inspector for the purposes of this Act.

(2) A gaming inspector may exercise such powers and perform such functions as are given by or under this or any other Act.

(3) The Director shall issue to a gaming inspector an identity card containing a photograph and the signature of the gaming inspector verified by the signature of the Director.

(4) A gaming inspector whose appointment is terminated shall surrender to the Director the identity card issued to the person under subsection (3).

Penalty: \$500.

(5) A gaming inspector shall, when exercising or performing any of his or her powers or functions, produce the identity card issued to the gaming inspector under subsection (3) to a person who questions the right of the gaming inspector to exercise the power of perform the function.

(6) The production by a gaming inspector of an identity card issued under subsection (3) shall, until the contrary is proved, be sufficient authority for the gaming inspector to do any thing which the gaming inspector is authorised to do by or under this Act.

(7) A gaming inspector 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

## *Gaming Control*

expert or experienced in a particular field of endeavour) and may, if the gaming inspector reasonably believes it is necessary in the circumstances, request a person to assist the gaming inspector.

(8) A person assisting a gaming inspector under subsection (7) has and may exercise all the powers of a gaming inspector as are reasonably necessary for the purpose.

(9) Where a person's appointment as a gaming inspector is terminated -

(a) the person shall not work; or

(b) a person shall not knowingly employ the person to work,

in a casino for a period of 6 months after the person's appointment is terminated.

### PART 3 - CASINOS

#### *Division 1 - Casino Agreements and Licences*

#### 16. APPLICATION FOR CASINO LICENCE

(1) A person may apply to the Minister to be granted a casino licence.

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

(3) An application under this section shall contain or be accompanied by such additional information as 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 an application is refused under subsection (4) or withdrawn by the applicant, the Minister, at his or her discretion, may refund the whole or part of the application fee.

#### 17. 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 the business of a casino and the manner in which the business may be conducted.

## *Gaming Control*

(2) The Minister may carry out, or cause to be carried out, such investigations and inquiries as the Minister considers necessary for the purposes of determining whether to enter into an agreement under subsection (1) or to grant a casino licence under section 18.

(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 business proposed to be conducted.

(4) In determining whether to enter into an agreement under subsection (1), the Minister shall have regard to whether -

- (a) the person is of good repute, having regard to character, honesty and integrity;
- (b) the person is of sound and stable financial background;
- (c) in respect of a corporation, it has or has arranged a satisfactory ownership, trust or corporate structure;
- (d) the person has or is able to obtain financial resources that are adequate to ensure the financial viability of the business proposed to be conducted and to obtain the services of persons who have sufficient experience in the management and operation of such a business;
- (e) the person has sufficient business ability to establish and maintain the business proposed to be conducted;
- (f) the person or any person to be involved in the management or operation of the business proposed to be conducted has any association with any 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; and/or
- (g) 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.



## *Gaming Control*

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

### 18. MINISTER MAY GRANT CASINO LICENCE

(1) Where the Minister enters into an agreement with a person under section 17, the Minister may grant a casino licence to the person for the playing of games, the operation of machines for the purpose of gaming and for such other purposes or activities as the Minister thinks fit and specifies in the licence at such place or places as the Minister approves.

(2) Subject to this Act, a casino licence is subject to such terms and conditions as are specified in the agreement.

(3) For the purposes of this section, the Minister shall, on granting a casino licence, approve a place or places at which the Licensee may conduct the business specified in the licence and may, from time to time, subject to the agreement, approve such other place or places at which the Licensee may conduct that business.

### 19. DURATION OF CASINO LICENCE

A casino licence remains in force for the period specified in the agreement unless, before the expiration of that period -

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

### 20. CANCELLATION OR SUSPENSION OF CASINO LICENCE

- (1) Subject to subsection (2), the Minister may -
- (a) cancel a casino licence;
  - (b) suspend a casino licence for a period not exceeding 6 months or the agreement; or
  - (c) vary the casino licence so that it applies to and in relation to part only of a place approved under section 18.

## *Gaming Control*

(2) The Minister shall not cancel, suspend or vary a casino licence unless the Minister is satisfied that the Licensee has -

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

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

(4) Nothing in this section shall be construed as extending the term of a casino 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 casino operations in a casino.

### *Division 2 - Conduct and Operation of Casino*

#### **21. CONDUCT OF CASINO**

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 casino licence in a casino in accordance with the terms and conditions of the casino licence and, to the extent that a condition would, but for this section, be in conflict with a law of the Territory, the law shall be deemed to be of no force or effect.

22. ASSIGNMENT OF CASINO LICENCE

(1) Subject to subsection (2), a casino licence or an interest (whether beneficial or otherwise) in a casino 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 a casino licence or an interest in a casino licence.

23. SURRENDER OF CASINO LICENCE

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

24. FEES

On being granted a casino licence, the Licensee shall pay to the Minister the fee for the licence, if any, specified in the agreement.

25. TAXES

(1) Without limiting a Licensee's liability to pay any other tax under a law of the Territory, the Licensee shall pay to the Minister, as a tax or levy, such amounts and at such times as 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 shall be read and construed as a reference to a tax or levy under that subsection.

26. GAMES IN CASINOS

(1) The Minister may approve a game, the organising or playing of which is unlawful, as a game that may be played in a casino.

(2) The Director may approve the rules and procedures of an approved game and the equipment that may be used in playing an approved game and may give directions and issue guidelines as to the operation and playing of an approved game.

## Gaming Control

### 27. PLAYING OF APPROVED GAMES

(1) Notwithstanding any other law of the Territory, it is lawful in a casino for -

- (a) the Licensee, a licensed employee or an approved agent of the Licensee to organise or play an approved game; and
- (b) a person, except a person in respect of whom a direction under section 33 is in force or who has not attained the age of 18 years, to play an approved game.

(2) A casino shall be deemed not to be a nuisance, either public or private, by reason only that it is used as a gaming house.

(3) The *Police Administration Act* does not apply to or in relation to -

- (a) approved implements or approved articles used or intended to be used in the playing of an approved game in a casino; or
- (b) implements or articles used or intended to be used in the playing of an approved game in a casino in the possession of the Director or a gaming inspector in the course of the Director's or the inspector's duties under this Act.

(4) Subject to subsection (5), a person shall not, except against a Licensee, bring legal proceedings to recover -

- (a) money won at gaming in a casino;
- (b) money on a cheque or other instrument given in payment of money so won; or
- (c) a loan of money with which to play a game in a casino,

that could not be brought if this Act had not been enacted.

(5) A person is not permitted to bring legal proceedings against a Licensee under subsection (4) to recover money won at gaming in a casino during a period when a direction under section 33 is in force in respect of the person, or if the person had not attained the age of 18 years when the money was won.

(6) A person shall not organise or play a game in a casino the organising or playing of which is unlawful unless the game is an approved game.

## Gaming Control

### 28. DETENTION OF SUSPECTED PERSON IN CASINO

(1) Notwithstanding any other law of the Territory, where -

- (a) the person for the time being in charge of a casino;
- (b) an employee authorised by the Licensee to act in pursuance of this section; or
- (c) a gaming inspector,

suspects on reasonable grounds that a person in a casino is contravening or attempting to contravene this or any other Act, the person in charge, the employee or inspector may detain the suspected person in an approved place in the casino until the arrival at the place of a member of the Police Force.

(2) A person who detains a suspected person under subsection (1) shall take such steps as are necessary to ensure the summoning and arrival of a member of the Police Force with as little delay as possible.

(3) A member of the Police Force may in a casino detain in a suitable place for a reasonable time a person who has or who is suspected, on reasonable grounds, to have contravened or attempted to contravene this or any other Act.

(4) A member of the Police Force, in detaining a person under this section, 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 reasonably necessary for the purpose of the detention and search.

(5) Nothing in subsection (3) or (4) shall derogate from a provision of the *Police Administration Act* relating to the detention of a suspected person.

### 29. CONSERVATION OF EVIDENCE

(1) Where the person for the time being in charge of a casino, an employee authorised under section 28(1)(b) or a gaming inspector in the course of their duties suspects, on reasonable grounds, that an instrument, article, equipment, device or thing has been or may be used in connection with an offence in a casino, whether or not a person

## *Gaming Control*

has been detained under section 28, the person in charge, employee or inspector may seize the instrument, article, equipment, device or thing in order to prevent it being -

- (a) concealed, lost or destroyed;
- (b) sold or otherwise disposed of; or
- (c) used in connection with an offence in the casino.

(2) Where it appears that property specified in subsection (1) cannot be seized under that subsection without a search of a person, the person shall be detained under section 28 and the search carried out by a member of the Police Force under that section.

(3) Property seized under subsection (1) shall be kept in a secure place and delivered up to a member of the Police Force with as little delay as possible.

### 30. BREACH OF RULES, CONDITIONS OR GUIDELINES OF GAMES BY OPERATOR

(1) Where a Licensee or licensed employee, after being warned by a gaming inspector, fails to take such action as is necessary to prevent -

- (a) a person playing an approved game from breaching the approved rules or procedures of the game; or
- (b) the operation of an approved game in a manner contrary to the approved rules or procedures,

the gaming inspector shall forthwith close down the table at which the game is being played or the gaming equipment being used to play the game.

(2) An order under subsection (1) shall remain in force for 24 hours.

(3) Unless approved, a person shall not, while an order under subsection (1) is in force, start up another game similar to the game closed down, notwithstanding that there is capacity in the casino to do so.

### 31. POWERS OF DIRECTOR IN RESPECT OF CASINO OPERATIONS

(1) The Director may approve the manner and form in which the accounts of the business conducted in a casino are to be kept.

(2) For the purposes of this Act, the Director may appoint a person to be a casino controller to carry out such functions as the Director may direct relating to the supervision and control of the business conducted in a casino.

## Gaming Control

(3) The Director may, from time to time, direct a Licensee to provide such information relating to the business conducted in a casino as may be required by the Director.

(4) The Director may, from time to time, direct a Licensee to adopt, vary, cease or refrain from a practice in respect of the business conducted in a casino.

(5) A Licensee shall keep the accounts of the business conducted in a casino in the manner and form approved under subsection (1).

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

### 32. LIQUOR LICENCE AT CASINO

While a casino licence is in force, a person, other than the Licensee or an approved employee of the Licensee, shall not hold a licence under the *Liquor Act* in respect of a casino or any part of a casino.

### 33. RIGHT OF ENTRY TO CASINO

(1) Subject to this Act, a person does not have a right to enter or remain in a casino except with the express or tacit approval of the Licensee.

(2) A direction prohibiting a person from entering or remaining in a casino may be given to a person by the Licensee or a person acting under the Licensee's supervision.

(3) A direction under subsection (2) may be given orally or in writing but, where it is given orally, the direction, in written form, shall be given to the person as soon as practicable thereafter.

(4) Where a direction is given under this section, the Licensee shall exclude or remove the person, or have the person excluded or removed, from the casino.

(5) A person shall not enter or remain in a casino in contravention of a direction given to the person under subsection (2).

(6) The Director or the Commissioner of Police within the meaning of the *Police Administration Act* may direct a Licensee not to permit a person to enter or remain in a casino.

(7) A direction of the Commissioner of Police under subsection (6) is of no force or effect unless the approval of the Director is obtained.

## *Gaming Control*

(8) A Licensee or an employee or agent of the Licensee acting in connection with a casino shall not knowingly allow a person to enter or remain in a casino in contravention of a direction given under this section.

(9) This section does not prevent a person from exercising a power conferred on the person by this or any other law of the Territory to enter, or to do any other act in relation to, a casino.

(10) A direction given under this section may be revoked in a like manner to that of giving the direction.

### 34. PERSONS UNDER 18 YEARS GAMING

(1) A Licensee shall ensure that a person who has not attained the age of 18 years is not permitted to-

- (a) play a game or operate a gaming machine in a casino; or
- (b) enter or remain in an area in a casino designated as a gaming area under the Regulations.

(2) It is a defence to a prosecution for an offence against subsection (1) to show that the defendant had reasonable grounds for believing that the person alleged to have not attained the age of 18 years had attained the age of 18 years.

(3) A person who has not attained the age of 18 years shall not -

- (a) play a game or operate a gaming machine in a casino; or
- (b) after being warned by the Licensee or a licensed employee, enter or remain in an area in a casino designated as a gaming area under the Regulations.

### 35. ENTRY OF CASINO BY DIRECTOR, GAMING INSPECTORS, &c.

(1) The Director, a gaming inspector or an approved person may, at any time, enter and remain in a casino for the purpose of -

- (a) observing the operations in the casino;
- (b) recording the operations in the casino;
- (c) ascertaining whether this Act, the *Liquor Act* and the agreement relating to the casino are being complied with; and/or



## *Gaming Control*

- (d) performing any other functions of the Director, the gaming inspector or the approved person.

(2) For the purpose of the discharge of the duty of a member of the Police Force, a part of a casino to which the public has access is a public place.

(3) The Director or an approved gaming inspector may enter and remain in a place that is associated or used in conjunction with the business conducted at a casino for the purpose of the Director or the approved gaming inspector performing his or her functions under this Act.

(4) A person shall 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.

### PART 4 - LOTTERIES

#### *Division 1 - Conduct of Lotteries*

#### 36. CONDUCT OF LOTTERY

A person shall not -

- (a) sell or dispose of, or agree or promise, whether or not for a consideration, to sell or dispose of, any land, goods or money to a person or among persons by means of a lottery;
- (b) print or cause to be printed a ticket or other writing for use in a lottery;
- (c) sell or distribute or cause to be sold or distributed, offer or advertise for sale or distribution or cause to be offered or advertised for sale or distribution or have in his or her possession for sale or distribution a ticket in a lottery;
- (d) accept money in respect of the sale or distribution of a ticket in a lottery;
- (e) print, publish or distribute or cause to be printed, published or distributed or have in his or her possession for publication or distribution -
  - (i) an advertisement of;
  - (ii) a list, whether complete or not, of prize winners or winning tickets in; or

## *Gaming Control*

- (iii) any matter descriptive of the drawing or intended drawing of, or otherwise relating to,

a lottery;

- (f) use premises or cause or permit premises of which he or she is the occupier to be used in connection with the conduct of a lottery; or
- (g) invite a person to participate in, or send to a person for distribution an advertisement concerning, or send to a person for sale or distribution a ticket in a lottery,

except in accordance with this Act and the Regulations.

### 37. DISTRIBUTION OF PROPERTY AMONG OWNERS

This Part does not apply to the distribution of real or personal property among the owners of the property if it is capable of being fairly apportioned and is proposed to be apportioned equally, so far as practicable, among all its owners.

## *Division 2 - Types of Lotteries*

### 38. LOTTERIES BY OR FOR APPROVED ASSOCIATIONS

(1) Subject to the Regulations, an approved association may conduct a lottery for its aid or support.

(2) An approved association shall not conduct a lottery other than in accordance with the Regulations.

### 39. TRADE LOTTERIES

(1) Subject to the Regulations, a person carrying on a trade or business in the Territory may conduct a trade lottery.

(2) A person shall not conduct a trade lottery other than in accordance with the Regulations.

### 40. FOREIGN LOTTERIES

(1) A person shall not sell tickets in a foreign lottery unless permission is granted under this section and the tickets are sold in accordance with the conditions to which permission is subject.

(2) A person may apply to the Minister for permission to sell tickets in a foreign lottery in the Territory.

## *Gaming Control*

(3) An application under subsection (2) shall be in writing in the approved form and shall be lodged with the Director, who, after considering the application, shall forward the application to the Minister with appropriate advice.

(4) The Minister, after considering the application and the advice of the Director, or the Commission may, in his or her discretion, refuse to grant the permission applied for, grant it, or grant it subject to such conditions as he or she thinks fit and specifies in writing to the applicant.

(5) In addition to the conditions, if any, specified under subsection (4), a permission granted under this section shall be subject to the conditions that -

- (a) the tickets in the lottery are sold for the purpose specified by the Minister on granting the permission; and
- (b) the proceeds of the lottery are remitted from the Territory in the manner required by the Regulations.

(6) Without limiting the generality of the Minister's power to impose conditions under subsection (4), the Minister may impose a condition that no ticket in the lottery be sold to a person who has not attained the age of 18 years or that no major prize shall comprise liquor or such other substance as may be prescribed.

(7) For the purposes of this section, a person does not sell tickets in the Territory by distributing leaflets, brochures or other printed material inviting persons to purchase elsewhere than in the Territory tickets in an art union or similar drawing.

(8) A person conducting a foreign lottery in which tickets are sold in the Territory shall submit to the Director, in the approved form, monthly returns of tickets sold in the Territory and such other information relating to the conduct of the lottery as the Director may, from time to time, require.

### *Division 3 - Territory Lotteries*

#### **41. TERRITORY-SPONSORED LOTTERIES**

Notwithstanding this or any other law of the Territory, the promotion and conduct of a lottery under and in accordance with this Division and the doing of anything incidental or ancillary to such promotion and conduct is lawful.

42. DIRECTOR MAY CONDUCT LOTTERIES

(1) Subject to this Act and the directions of the Minister, the Director may -

- (a) promote and conduct, whether as principal or agent or through an agent, lotteries within the Territory and enter into agreements and do or cause to be done all things necessary for or incidental or ancillary to the promotion or conduct of lotteries within the Territory;
- (b) appoint on such terms and conditions as the Director thinks fit persons, including approved associations, to act as the Director's agent in the conduct of lotteries; and
- (c) do or cause to be done such other things as are necessary or convenient to be done for or in relation to the promotion and conduct of lotteries.

(2) The Director may determine that tickets in a lottery conducted under this Division are not to be sold to a person who has not attained the age of 18 years, and may accordingly require an agent appointed under subsection (1)(b) not to sell tickets to such a person.

(3) Subject to the Regulations, a person authorised by the Minister may promote and conduct a lottery.

43. LOTTERIES FUND

(1) The Treasurer shall establish a trust account under section 6 of the *Financial Administration and Audit Act* to be known as the Lotteries Fund.

(2) The Director shall pay into the Lotteries Fund all money received by the Director -

- (a) in relation to lotteries conducted under this Division;
- (b) as commission on a foreign lottery conducted under this Act;
- (c) under the Regulations; and
- (d) as unclaimed prizes.

(3) The money paid into the Lotteries Fund shall be applied in -

- (a) paying prize money in respect of lotteries conducted by the Director under this Division;

## *Gaming Control*

- (b) paying costs incurred by the Director in promoting and conducting lotteries under this Division;
- (c) making such other payments to -
  - (i) the Consolidated Fund; or
  - (ii) charitable organizations, or other bodies which, in the opinion of the Treasurer, promote the welfare of the community,as directed by the Treasurer; and
- (d) paying to the Sports and Recreational Development Fund, at the times referred to in subsection (4), moneys remaining in the Lotteries Fund after payments have been made under paragraphs (a), (b) and (c).

(4) The transfers from the Lotteries Fund to the Consolidated Fund and the Sports and Recreational Development Fund shall be made at such times as the Treasurer directs.

(5) Where a person makes a claim to the Treasurer for the payment of an amount of -

- (a) prize money; or
- (b) money realised on the sale of an unclaimed prize,

which has not been paid or which, having been paid into the Lotteries Fund under subsection (2)(d), has been transferred to the Sports and Recreational Development Fund, and the Treasurer is satisfied that the person is the beneficial owner of a prize winning ticket whether issued by the Director or any other person which would have entitled the person to obtain payment of the prize money or prize, the Treasurer may authorise the payment to the person, out of the Lotteries Fund, the amount of the prize money or the money realised on the sale of the prize.

### 44. SPORTS AND RECREATIONAL DEVELOPMENT FUND

(1) The Treasurer shall establish a trust account under section 6 of the *Financial Administration and Audit Act* to be known as the Sports and Recreational Development Fund.

## *Gaming Control*

(2) The moneys transferred to the Sports and Recreational Development Fund in accordance with section 43(3)(d) shall be used for the provision, maintenance, development and improvement of such sport and sporting and recreational facilities, and in such amounts, as the Minister responsible for sport and recreation, in writing, determines.

### 45. LOTTERIES CONDUCTED BY DIRECTOR

Lotteries conducted by the Director shall be conducted in such form and under such conditions as may be prescribed.

### 46. OFFENCES

(1) A person shall not, with intent to defraud, forge, utter or alter a ticket in a lottery, or any paper, instrument or matter purporting to be a ticket in a lottery, conducted or to be conducted under this Division.

(2) A person shall not fraudulently take or convert to his or her own use or benefit or to the use or benefit of any other person a prize or ticket in a lottery, or purporting to be in a lottery, or any money subscribed or contributed for a lottery, conducted under this Division.

(3) A person shall not fraudulently alter or falsify a book, document or voucher relating to a lottery conducted under this Division or fraudulently omit or cause to be omitted a material particular from a book, document or voucher relating to such a lottery.

(4) A person shall not, without the written authority of the Director, for hire, gain, reward, share or interest of any kind (other than a share in a prize that may be won by the ticket) promote or offer to promote, or take part in or offer to take part in, the formation of a syndicate for the purchase of a ticket in a lottery conducted or to be conducted by the Director under this Division.

(5) A person shall not -

(a) advertise in any manner or by any means; or

(b) print or publish an advertisement, whether on behalf of the person or another person,

that the person or the other person will accept money for a share in a ticket to be purchased by that person or any other person in a lottery conducted or to be conducted by the Director.

## *Gaming Control*

(6) Subject to subsection (7) and section 37, a person shall not distribute, display or publish or cause to be distributed, displayed or published, by any means, a notice or advertisement which states or from which it could reasonably be inferred that the person or another person -

- (a) is an agent of the Director;
- (b) is authorised to sell tickets in a lottery; or
- (c) invites any person to purchase from him or her or that other person a ticket in a lottery.

(7) An agent of the Director, or other person authorised by the Director to sell tickets in a lottery conducted by the Director, shall not sell tickets in a lottery except on premises at which the person is authorised by the Director to sell tickets.

(8) It is not an offence against this section for -

- (a) an agent of the Director or other person authorised by the Director to sell tickets in a lottery conducted by the Director, to display within or outside premises at which the person is so authorised to sell such tickets a notice bearing the words "Lottery Tickets Sold Here" without the addition of any other words, symbols or characters;
- (b) the Director to issue, distribute, display or publish -
  - (i) a list of the names and addresses, if any, of prize winners or the numbers of prize winning tickets in a lottery conducted by the Director; or
  - (ii) a list of the names and addresses of agents of the Director and other persons authorised by the Director to sell tickets in a lottery conducted by the Director;
- (c) an agent of the Director or other person authorised by the Director to sell tickets in a lottery conducted by the Director, to distribute or display, at premises at which the person is so authorised to sell such tickets, a list referred to in paragraph (b); or
- (d) a person, who is requested or authorised by the Director to do so, to print, exhibit or publish, or cause to be printed, exhibited or published, a notice, placard, handbill, card, writing, sign

## Gaming Control

or advertisement of a lottery, or of any proposal for a lottery, if the contents of such notice, placard, handbill, card, writing, sign or advertisement have been previously approved by the Director.

### PART 5 - GAMING

#### *Division 1 - Gaming Machines, Ticket Dispensing Machines and Games in Nature of Lottery*

##### 47. CERTAIN MACHINES AND CERTAIN GAMES PROHIBITED

Subject to this Act, a person shall not -

- (a) on premises owned or occupied by the person provide, or cause or allow to be used, a ticket dispensing machine; or
- (b) conduct, or cause or allow to be conducted, a sweepstake, calcutta, game of bingo or such other game as may be prescribed.

##### 48. APPROVED ASSOCIATION MAY PROVIDE TICKET DISPENSING MACHINE

(1) An approved association may provide on premises owned or occupied by it or, with the consent of the Director, on other premises -

- (a) ticket dispensing machines; or
- (b) such other machines or devices, not being gaming machines, as may be prescribed,

where the cost of a ticket does not exceed 50 cents or such other amount as may be prescribed.

##### 49. GAMING MACHINES PROHIBITED WITHOUT PERMIT

(1) Subject to this Act, a person shall not -

- (a) possess, provide, use or cause or allow to be used a gaming machine;
- (b) supply, lease, hire out or bail a gaming machine; or
- (c) assemble, repair or maintain a gaming machine,

unless the person does so under and in accordance with a permit granted under this Act, the guidelines (if any) made under section 51 and with any regulations relating to gaming machines.



(2) The Director may, where there is a breach of a condition under which a permit was granted or a guideline made under section 51, cancel, or suspend for not longer than 6 months, the permit.

50. GAMING MACHINE TURNOVER LEVY AND TRUST ACCOUNT

The Treasurer may establish a trust account under section 6 of the *Financial Administration and Audit Act* for the purposes of -

- (a) receiving any gaming machine turnover levy required to be paid into it under this Act; and
- (b) applying out of its funds payments to non-profit making associations which, generally, should be in the vicinity of, which make use of the facilities of, or have some association with the premises in which a gaming machine, in respect of which the turnover levy is payable, is situated, or which are of a nature specified in the Regulations.

51. DIRECTOR MAY MAKE GUIDELINES

(1) Subject to this Act, the Regulations and the written directions of the Minister (if any), the Director may make written guidelines in the form of criteria, either general or specific, for or in relation to -

- (a) the construction, nature, purpose and physical integrity of a gaming machine;
- (b) the place (including a public place) where a gaming machine may be permitted to be kept, used, maintained or repaired;
- (c) the form and content of an instrument relating to the supply, lease, hire or bailment of a gaming machine; and
- (d) such other matters relating to gaming machines as the Director thinks relevant.

(2) Notwithstanding that an application for a permit may be in conformity with guidelines made under this section, the discretion of the Director to grant the permit, with or without conditions, or to refuse to grant the permit, is not limited or affected by that conformity.

52. CONDUCT OF CALCUTTAS, SWEEPSTAKES AND BINGO

(1) Subject to subsection (2), an approved association may conduct -

- (a) a calcutta;

## *Gaming Control*

- (b) a sweepstake; or
- (c) games of bingo.

(2) The rules for conducting a game under this section shall be as prescribed.

### 53. GAMES IN NATURE OF LOTTERY

(1) The Minister may, by notice in the *Gazette*, determine that a game is not a lottery for the purposes of Part 4.

(2) Where the Minister has under subsection (1) determined that a game is not a lottery for the purposes of Part 4, the Minister may in the same notice -

- (a) declare it to be an unlawful game; or
- (b) declare that the game may be played only -
  - (i) in such place or places and on such occasions as the Minister specifies in the notice; or
  - (ii) by an approved association or other person or body in accordance with a permit issued by the Director.

(3) A person shall not organise, promote or conduct a game in respect of which a declaration has been made under subsection (2)(b) otherwise than in accordance with a notice published under subsection (2)(b)(i) or of a permit granted under this Act.

(4) A person shall not play or take part in a game in respect of which a declaration has been made under subsection (2)(b) knowing that the game is being organised, promoted or conducted otherwise than in accordance with a notice under subsection (2)(b)(i) or of a permit granted under this Act.

(5) The Minister may, by notice in the *Gazette*, declare that the use of specified cards, devices or objects for the purpose of the disposition of real or personal property or a share or interest in such property or a right to a benefit or thing dependent on or to be determined, wholly or partly, by chance comprises a lottery.

## *Division 2 - Control of Gaming*

### 54. UNLAWFUL GAMES

- (1) For the purposes of this Act -
  - (a) a game -

## *Gaming Control*

- (i) which is or is intended to be a game of chance;
- (ii) which is or is intended to be a game partly of chance and partly of skill; or
- (iii) which is a trick or sleight of hand,  
played with an instrument of gaming, contrivance or device whereby money is or goods are gained or disposed of;
- (b) a game from which a person derives a percentage, part or share of the amount or amounts wagered, staked or played for or for which a charge is made; or
- (c) a game declared under the Regulations or by the Minister under section 53(2)(a) to be an unlawful game,

is an unlawful game.

(2) The Minister may in writing permit the playing of a game that is otherwise unlawful in such place or places and on such occasions as the Minister specifies in the notice.

(3) A person is not guilty of an offence against this Division in respect of an unlawful game specified in -

- (a) a notice under subsection (2); or
- (b) a permit granted under this Act,

where the person is playing the game in accordance with the notice or permit.

(4) Notwithstanding subsection (1), the game commonly known as or called two-up or swy is not an unlawful game where -

- (a) it is played at a racing venue situated outside the circumference of a circle having a radius of 80 km centred on the casino at Alice Springs and Darwin respectively, is conducted by or on behalf of a club on the day of a meeting for a period of not more than 4 hours commencing after the finish of the last race of the meeting, and the profits (if any) are payable to the club to be applied towards its purposes or such other purposes as the club thinks proper; or

## Gaming Control

- (b) it is played only on 25 April (whether or not Anzac Day is publicly celebrated on that date), is conducted by or on behalf of a Returned Services League Club and the profits (if any) are payable to that club.

(5) In subsection (4)(a), "club", "meeting", "race" and "racing venue" have the same meanings as in section 4(1) of the *Racing and Betting Act*.

### 55. ORGANISING, &c., UNLAWFUL GAME

A person shall not -

- (a) organise or conduct, or assist in organising or conducting, an unlawful game; or
- (b) receive a percentage of an amount wagered on an unlawful game.

### 56. SELLING TICKET, &c., IN UNLAWFUL GAME

A person shall not -

- (a) give or sell a ticket; or
- (b) take a ticket,

in an unlawful game.

### 57. PLAYING AT UNLAWFUL GAME

(1) A person shall not play at or participate in an unlawful game.

(2) A person shall not -

- (a) be present at any unlawful gaming or at the playing of an unlawful game;
- (b) be in a place in which any unlawful gaming is taking place, without lawful excuse (the proof of which excuse shall be upon the person); or
- (c) bet by way of wagering or gaming on an unlawful game.

### 58. ADVERTISING

A person shall not -

- (a) placard, post up or exhibit;
- (b) permit or suffer to be placarded, posted up or exhibited; or

## *Gaming Control*

(c) assist in placarding, posting up or exhibiting, in, on or about any land or premises any information or notice or list relating directly or indirectly to an illegal lottery or an unlawful game.

### 59. FALSE PRETENCES

A person shall not, by fraud, fraudulent device or practice in playing with an instrument of gaming, win from a person for himself or herself, or another person, money or a valuable thing.

### 60. PLACE FOR UNLAWFUL GAMING

(1) Subject to this section, a place is used for unlawful gaming if it or a part of it -

(a) is used for or in connection with -

(i) a lottery, calcutta, sweepstake or game of bingo which is not authorised by this Act or, being authorised, is not conducted in accordance with this Act; or

(ii) an unlawful game; or

(b) is opened, kept or used for the purpose of the owner, occupier or keeper of it, or a person using it, or a person procured or employed by or acting for or on behalf of the owner, occupier or keeper, or person using it, or of a person having the care or management or in any manner conducting the business thereof, conducting or participating in unlawful gaming with persons resorting to the place.

(2) A casino is not a place used for unlawful gaming in respect of operations conducted in the casino that are permitted under this Act.

### 61. PENALTY FOR KEEPING PLACE FOR UNLAWFUL GAMING

(1) A person shall not use a place for unlawful gaming, or knowingly and wilfully permit it so to be used by any other person, or have the care or management of, or in any manner assist in conducting the business of, a place so used.

(2) A person shall not, without lawful excuse, enter or remain in a place used for unlawful gaming.

62. EVIDENCE THAT PLACE USED FOR UNLAWFUL GAMING

It is prima facie evidence that a place is used for unlawful gaming if it is proved that -

- (a) the place is kept or used for the playing therein of an unlawful game or that a bank is kept there by one or more of the players exclusive of the others; or
- (b) the chances of a game played therein are not alike favourable to all the players (including the banker or other person by whom the game is managed or against whom the other players stake, play or bet),

whether or not the place is open for the use of subscribers only.

63. NOT NECESSARY TO PROVE THAT PERSON WAS FOUND PLAYING FOR MONEY, &c.

It is not necessary in support of a complaint for gaming in, or for suffering a game or gaming in, or for keeping or using or being concerned in the management or conduct of a place for unlawful gaming, to prove that a person found playing at a game was playing for money or a valuable thing.

64. EFFECT OF DISCOVERY OF INSTRUMENTS OF GAMING

Where a place suspected to be open, kept or used as a place for unlawful gaming is lawfully entered by a member of the Police Force or a gaming inspector, the discovery therein or on or about a person found in the place of an instrument of gaming, gaming machine, ticket dispensing machine or thing used in or associated with playing an unlawful game is prima facie evidence that -

- (a) the place is used as a place for unlawful gaming; and
- (b) the persons found in the place where the instrument or machine was discovered were playing in that place, although no play was actually going on in the presence of the member of the Police Force or gaming inspector lawfully entering or the member's or gaming inspector's assistants.

65. EVIDENCE THAT PLACE USED AS PLACE FOR UNLAWFUL GAMING

Where -

- (a) a member of the Police Force or a gaming inspector is wilfully prevented from or is obstructed or delayed in entering a place in which the member has reasonable grounds for

## Gaming Control

suspecting unlawful gaming is, has been or is about to be carried on or any part of that place;

- (b) an external or internal door of, or means of access to, such place is found to be fitted or provided with a bolt, bar, chain or means or contrivance for the purpose of preventing, delaying or obstructing the entry into the place or any part of the place of a member of the Police Force or gaming inspector or for giving an alarm in case of that entry; or
- (c) such a place is found fitted or provided with a means or contrivance for concealing, removing or destroying an instrument of gaming,

it shall be prima facie evidence that the place is used for unlawful gaming and that the persons found in the place were playing an unlawful game therein.

### 66. EVIDENCE AS TO OFFENCES

Where, on the hearing of a complaint relating to an offence against this Part, the court is of the opinion that money or a valuable thing which has to its satisfaction been proved to have been given to, or received or paid by the accused person, or given to, or received or paid by a person on the accused person's behalf, has been given, received or paid, as the case may be, in circumstances which, in the mind of the court, raise a reasonable suspicion that such money or thing was so given, received or paid in contravention of this Part, the giving, receiving or paying shall be prima facie evidence of the commission by the accused person of the offence specified in the complaint.

### 67. REASONABLE SUSPICION SUFFICIENT

Where, on the hearing of a complaint against a person in relation to an offence against this Part, the evidence for the prosecution is such as to raise in the mind of the court hearing the complaint a reasonable suspicion that the person is guilty of the offence, that evidence is prima facie evidence that the person is guilty of that offence.

### 68. SPECIAL POWERS RELATING TO SEARCHES, &c.

(1) Notwithstanding section 117 of the *Police Administration Act*, it shall not be necessary in an information laid or application made for the purpose of obtaining a search warrant for the search of a place on or in which a member of the Police Force has reasonable grounds for suspecting that an offence against this Part is, has been or is about to be carried on, or in a search

## *Gaming Control*

warrant issued as a result of that information laid or application made, for the particular items associated with the offence for which it is intended to search, or a description of such items, to be specified, and a search for any such items may be conducted by authority of the warrant.

(2) A member of the Police Force or gaming inspector who lawfully enters a place on or in which the member or gaming inspector has reasonable grounds for suspecting that an offence against this Part is, has been or is about to be carried on may, with such assistance as the member or gaming inspector thinks necessary, if necessary by force -

- (a) open a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found on or in the place;
- (b) without warrant, search a person found on or in the place or the clothing being worn by or property in the control of the person; and
- (c) seize anything found on or in the place or in the course of the search that the member or gaming inspector reasonably believes is evidence of or associated with the offence committed on or in that place.

(3) The power conferred on a member of the Police Force by this section is in addition to and not in derogation of any other power conferred by a law in force in the Territory.

(4) Where the ownership of a gaming machine or part of a gaming machine cannot, at the time of its seizure under this section, be ascertained, the property seized shall be forfeit to the Crown and may be sold, destroyed or disposed of, as the Director thinks fit, after 90 days from the date of seizure if, within that time, it has not been possible after reasonable inquiry, to establish ownership of the property.

(5) A person convicted of an offence relating to a gaming machine is liable to pay to the Crown the reasonable costs of handling, securing, maintaining or storing property seized under this section in relation to the offence, which costs may be assessed by the court and collected in like manner to a monetary penalty.

## PART 6 - MISCELLANEOUS

### 69. CHEATING

- (1) A person shall not -
  - (a) by a fraudulent trick, device, sleight of hand or representation;



## *Gaming Control*

- (b) by a fraudulent scheme or practice;
- (c) by the fraudulent use of gaming equipment or any other thing; or
- (d) by the fraudulent use of an instrument or article of a type normally used in connection with gaming, or appearing to be of a type normally used in connection with gaming,

obtain for himself or herself or another person, or induce a person to deliver, give or credit to him or her or another person, any money, chips, benefit, advantage, valuable consideration or security.

(2) A person shall not use or have in his or her possession -

- (a) chips that he or she knows are bogus or counterfeit chips;
- (b) an instrument of gaming that he or she knows has been marked, loaded or tampered with; or
- (c) for the purpose of cheating, stealing or obtaining a benefit or advantage not ordinarily available to a person, any equipment, device or thing that permits or facilitates cheating, stealing or obtaining such a benefit or advantage.

(3) In so far as subsection (2) prohibits the possession of any thing referred to in subsection (2)(a) or (b), the prohibition does not extend to the possession by a person in charge of a casino, an agent or employee of a licensee, a gaming inspector or a member of the Police Force, if the thing -

- (a) has been seized under this Act for use as evidence in proceedings for an offence; or
- (b) is being used for the purposes of instruction or comparison in identifying such things.

### 70. ACT NOT TO EXTEND TO STAKES PAYABLE TO WINNER OF LAWFUL GAME OR RACE

Nothing in this Act shall extend to a person receiving or holding money or a valuable thing by way of a stake or deposit to be paid to the winner of a race or lawful sport, game or exercise.

### 71. SECRECY

(1) Subject to this section, a person who is employed by the Territory shall not, either directly or indirectly, except for the purposes of this Act -

## Gaming Control

- (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.

(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; or
- (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;
  - (iii) the Auditor-General for the purposes of performing functions or exercising powers imposed or conferred on the Auditor-General by or under the *Financial Administration and 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.

(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

## *Gaming Control*

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.

### 72. LIABILITY OF DIRECTORS

Where a Licensee, that is a corporation, is convicted of an offence against this Act, each person who, at the time of the commission of the offence, was a director of the corporation shall be guilty of the offence and punishable as if the offence had been committed by a person other than the corporation, unless the person proves that the offence was committed without the person's knowledge or that the person took reasonable steps to prevent the commission of the offence.

### 73. REGULATORY OFFENCES

An offence of contravening or failing to comply with section 33(5), 34(3), 49, 53(4) or 57(1), (2)(a) or (c) is a regulatory offence.

### 74. PENALTIES

A person who contravenes or fails to comply with section 4(7), 15(9), 27(6), 30(3), 31(5) or (6), 32, 33(5) or (8), 34(1) or (3), 35(4), 36, 38(2), 39(2), 40(1) or (8), 46, 47, 49(1), 53(3) or (4), 55, 56, 57, 58, 59, 61(1) or (2), 69 or 71(1) is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$10,000 or imprisonment for 2 years.

### 75. 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;

## *Gaming Control*

- (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.

### 76. INSTITUTION OF PROCEEDINGS

Proceedings for an offence against this Act may be instituted only by a member of the Police Force or the Director.

### 77. EVIDENCE IN PROCEEDINGS

(1) In proceedings in respect of an offence against this Act, a certificate purporting to be signed by the Chairperson or the Director to the effect that, on a date specified in the certificate -

- (a) premises were or were not approved or deemed approved under this Act;
- (b) a person was or was not a Licensee;
- (c) the Minister had or had not entered into an agreement with a person named in the certificate;
- (d) a named person was, or was not, a gaming inspector;
- (e) a permit, determination, declaration, approval, permission or direction was, or was not, in force; or
- (f) a named person was, or was not, an approved person,

is, in the absence of proof to the contrary, sufficient evidence of the matter stated in the certificate.

(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.

### 78. FORFEITURE

(1) Where a person is found guilty of an offence against this Act, then, whether or not a conviction is entered or a penalty imposed, an instrument of gaming, amusement machine, ticket dispensing machine or any other instrument, article, equipment, device or thing used in or

in relation to the commission of the offence is forfeited to the Crown and may be kept, sold, destroyed or otherwise disposed of as the Director thinks fit.

(2) A forfeiture under subsection (1) is in addition to and not in substitution for any other penalty imposed by a court in relation to the offence.

(3) Money forfeited under this section shall be paid into the Lotteries Fund established under section 43.

#### 79. PROTECTION OF INSPECTOR, &c.

An action or proceeding, civil or criminal, shall not lie against the Director, a gaming inspector, a member of the Police Force or a person approved or authorised under this Act acting in the execution or intended execution of this Act or the Regulations on account of anything done or omitted to be done for the purposes of this Act or the Regulations or done or omitted to be done in good faith and purporting to be for the purposes of this Act or the Regulations.

#### 80. 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) Without limiting the generality of subsection (1), the Regulations may make provision for or in relation to -

- (a) applications for a review of actions of the Director or complaints;
- (b) the powers and procedures of the Commission in conducting a review;
- (c) the accounting and internal controls of the business conducted in a casino;
- (d) the persons who may be employed or who may perform duties at casinos, including the licensing of such persons;
- (e) the approval of associations to conduct gaming, including calcuttas, sweepstakes and bingo, and the variation, suspension and cancellation of such approvals;

## *Gaming Control*

- (f) the granting of permits under this Act, the fees to be charged for the granting of permits, the conditions to which permits may be subject and the variation, suspension and cancellation of such permits;
  - (g) the sale of tickets in lotteries and the payment of commission on the sale of such tickets;
  - (h) the prevention of fraud in connection with casinos, gaming, gaming machines and lotteries and the promotion and conduct of lotteries;
  - (j) the rules under which gaming including sweepstakes, games of bingo and calcuttas may be conducted;
  - (k) the conduct of lotteries and drawings, including trade lotteries, sweepstakes, games of bingo and calcuttas;
  - (m) the conditions, rules and purposes of lotteries, and the value of prizes offered in lotteries;
  - (n) the circumstances in which, and the conditions under which, the Commission or the Director may intervene in, advise on or resolve disputes relating to gaming;
  - (p) the payment or delivery of prizes in connection with Territory-sponsored lotteries and the conditions under which prizes shall be paid or delivered;
  - (q) the declaration of games to be unlawful games;
  - (r) the operation and control of gaming and associated equipment;
  - (s) the disposing of unclaimed or unpaid prizes or money; and
  - (t) offences against the Regulations, including regulatory offences, and prescribing penalties, not exceeding \$2,000, for those offences.
- (3) Without limiting the generality of subsection (1), the Regulations may make provision for or in relation to -
- (a) the imposition on such holders of gaming machine permits as may be prescribed of a gaming machine turnover levy, not exceeding 6% of the total value of coins, tokens or credits used to play or operate a gaming machine, of which half is payable to the trust account established under section 50 and the other half to the Consolidated Fund;

## *Gaming Control*

- (b) authorising the Minister to appoint trustees to administer any funds in the trust account established under section 50 and to advise the Treasurer on establishing rules and procedures for the administration of those funds; and
- (c) the collection of, and the times and methods of payment of, the turnover levy, whether by reference to the *Taxation (Administration) Act* or otherwise.

### 81. REPEAL

(1) The *Casino Licensing and Control Act*, comprising the Acts specified in Part 1 of the Schedule, is repealed.

(2) The *Lotteries and Gaming Act*, comprising the Acts specified in Part 2 of the Schedule, is repealed.

### 82. SAVINGS AND TRANSITIONAL

- (1) In this section -

"Casino Act" means the Act repealed by section 81(1);

"former Commission" means the Gaming Control Commission established by the Lotteries Act;

"Lotteries Act" means the Act repealed by section 81(2).

- (2) On the commencement of this Act -

(a) the person who, immediately before that commencement, was the Director of Gaming, within the meaning of the Lotteries Act, shall be deemed to have been appointed the Director of Gaming under this Act;

(b) a person who, immediately before that commencement, was a member of the former Commission shall be deemed to be appointed as a member of the Commission for the remainder of the period for which the person was appointed under the Lotteries Act;

(c) a person who, immediately before that commencement, was a deputy of a member of the former Commission shall be deemed to be appointed as the deputy of the member under this Act;

(d) a person who, immediately before that commencement, was a Treasury Gaming Inspector under the Casino Act shall be deemed to have been appointed a gaming inspector under this Act;

## *Gaming Control*

- (e) the Lotteries Fund and the Sports and Recreational Development Fund established under the Lotteries Act shall be deemed to be the Lotteries Fund and the Sports and Recreational Development Fund required to be established under this Act;
  - (f) the trust account opened for the purposes of section 37AB of the Lotteries Act shall be deemed to be the trust account that may be established under section 50;
  - (g) a licence granted under the Casino Act shall be deemed to be a licence granted under this Act subject to the same terms and conditions to which it was subject under the Casino Act;
  - (h) a permit, determination, declaration, approval, permission or direction granted, made or given under the Lotteries Act that was in force immediately before that commencement shall be deemed to be a permit, determination, declaration, approval, permission or direction granted, made or given under the equivalent section, if any, of this Act subject to the same terms, conditions and limitations to which it was subject under the Lotteries Act;
  - (j) guidelines promulgated under the Lotteries Act that were in force immediately before that commencement shall be deemed to be guidelines promulgated under this Act;
  - (k) a game that, immediately before that commencement, was an authorised game under the Casino Act shall be deemed to be a game approved under this Act; and
  - (m) a direction under the Casino Act that was in force immediately before that commencement shall be deemed to be a direction given under the equivalent section, if any, of this Act.
- (3) An appointment under the Lotteries Act or the Casino Act deemed under this section to be an appointment under this Act may be terminated in accordance with this Act.
- (4) A permit, declaration, approval, permission or direction under the Lotteries Act or a direction under the Casino Act deemed by this section to be a permit, declaration, approval, permission or direction under this Act may be cancelled, suspended, varied or otherwise dealt with under this Act.



## Gaming Control

(5) On the commencement of this Act, premises specified in a licence granted under the Casino Act shall be deemed to be a place approved under this Act at which the Licensee may conduct the business specified in the licence and, notwithstanding anything to the contrary in the agreement or the licence, the Minister may, in accordance with this Act, from time to time, approve such other place or places at which the Licensee may conduct that business.

(6) A licence granted under the Casino Act to be deemed in pursuance of this section to be a licence under this Act may be cancelled, suspended, varied or otherwise dealt with under this Act.

(7) The Lotteries and Gaming Regulations, as in force immediately before the commencement of this Act, shall continue in force after that commencement as if they had been made under this Act and may be amended or repealed under this Act, and a reference in those Regulations to a section of the Lotteries Act shall be construed, where possible, as a reference to the appropriate or relevant section of this Act.

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### SCHEDULE

Section 81

#### ACTS REPEALED

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##### PART 1

<i>Casino Licensing and Control Act 1984</i>	No. 22, 1984
<i>Casino Licensing and Control Amendment Act 1989</i>	No. 56, 1989
<i>Casino Licensing and Control Amendment Act 1991</i>	No. 20, 1991

##### PART 2

<i>Lotteries and Gaming Act 1982</i>	No. 32, 1982
<i>Lotteries and Gaming Amendment Act 1983</i>	No. 51, 1983
<i>Lotteries and Gaming Amendment Act 1984</i>	No. 25, 1984
<i>Lotteries and Gaming Amendment Act 1985</i>	No. 4, 1985
<i>Lotteries and Gaming Amendment Act 1986</i>	No. 41, 1986
<i>Lotteries and Gaming Amendment Act 1990</i>	No. 11, 1990
<i>Lotteries and Gaming Amendment Act 1991</i>	No. 7, 1991
<i>Lotteries and Gaming Amendment Act (No.2) 1991</i>	No. 21, 1991

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