

Licensing (Repeals and Consequential Amendments) Bill 2014

Serial No. 103

**Legislative Assembly of the
Northern Territory**

Minister for Business

EXPLANATORY STATEMENT

General Outline

This Bill makes a number of consequential amendments to the *Gaming Control Act*, *Gaming Machine Act*, *Kava Management Act*, *Liquor Act*, *Private Security Act*, *Prostitution Regulation Act*, *Racing and Betting Act*, *Tobacco Control Act*, *Totalisator Licensing and Regulation Act*, and the *Associations Act*.

The amendments will provide for a new administrative decision-making framework which will streamline decision-making in the licensing area.

NOTES ON CLAUSES

Part 1 Preliminary matters

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Licensing (Repeals and Consequential Amendments)*

Act 2014.

Clause 2. Commencement

This clause provides for the commencement of the amendments.

Part 2 Amendment of Gaming Control Act

Clause 3. Act amended

This clause provides for amendments to the *Gaming Control Act*.

Clause 4. Section 3 amended

This clause removes the definition of Commission and Director, and inserts new definitions for the Director-General established in the *Licensing (Director-General) Act 2014*. This clause also inserts definitions of affected person and reviewable decision.

Clause 5. Section 4 amended

This clause amends the *Gaming Control Act* to vest powers and functions in the Director-General. These powers and functions are to be read in conjunction with the powers vest in the Director-General to do all things necessary by the *Licensing (Director-General) Act 2014*. The Director-General will be vested with its review function under the new *Licensing (Director-General) Act 2014*.

Clause 6. Section 13 repealed

This clause repeals section 13 as the Commission is no longer established.

Clause 7. Section 68C amended

This clause amends section 68C by replacing Director with Director-General. The clause also inserts subsection 68C(1)(d) to allow moneys paid under any Act being required to be paid into the Community Benefit Fund.

Clause 8. Part 5B inserted

This clause inserts Part 5B and provisions that allow for review by the Northern Territory Civil and Administrative Tribunal of reviewable decisions. The provisions provide for relevant definitions and confers jurisdiction on the Northern Territory Civil and Administrative Tribunal. This clause also inserts section 68CD which allows regulations to declare a delegate decision as not being reviewable pursuant to the *Licensing (Director-General) Act 2014*.

Clause 9. Section 80 amended

This clause omits references to Commission or Director and replaces them with Director-General. The clause also removes the regulation making power as it relates to applications for and conducting a review, as these will now be provided for in the *Licensing (Director-General) Act* to the extent that a decision is delegated.

Clause 10. Part 7, Division 3 inserted

This clause inserts Part 7, Division 3 Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*.

Clause 11. Act further amended

This clause gives effect to Schedule 1 which provides for the replacement of the word Commission and Director for Director-General in a number of sections of the *Gaming Control Act*.

Part 3 Amendment of Gaming Machine Act

Clause 12. Act amended

This clause provides for the amendment of the *Gaming Machine Act*.

Clause 13. Section 3 amended

This clause removes the definitions of Chairperson, Commissioner and Director, and inserts new definitions for the Director-General as established in the *Licensing (Director-General) Act 2014*. Definitions for affected person and reviewable decision are also inserted into Section 3 by this clause.

Clause 14. Section 17 amended

This clause amends section 17 by omitting references to the Commission's powers and functions, and replacing with references to the Director-General's powers and functions. These powers and functions are to be read in conjunction with the powers vest in the Director-General to do all things necessary by the *Licensing*

(Director-General) Act 2014.

Clause 15. Section 19 repealed

This clause repeals section 19 which is no longer relevant as not all decisions of the Director-General are final, with reviewable decisions able to be reviewed by the Northern Territory Civil and Administrative Tribunal as provided in the *Gaming Machine Act*.

Clause 16. Section 20 amended

This clause amends section 20 by replacing reference to Director with Director-General, in addition to amending the appointment provision with standard drafting protocols to recognise the definition of public sector employee in the *Interpretation Act*.

Clause 17. Section 21 amended

This clause amends section 21 by replacing reference to Director with Director-General, in addition to amending the appointment provision with standard drafting protocols to recognise the definition of public sector employee in the *Interpretation Act*.

Clause 18. Section 24 amended

This clause amends section 24 to provide correct Act references. This clause also amends

section 24(3)(k) to clarify that an applicant must identify the number of gaming machines they are seeking to have authorised under the licence. A further amendment is made by this clause to provide a head of power to allow the regulations to prescribe a levy for each gaming machine the application is seeking to have authorised for use under the licence.

Clause 19. Section 41 amended

This clause amends section 41 to clarify that an applicant specify the number of additional gaming machines that the applicant seeks to have authorised for use under the licence. Other amendments to this section have been made to clarify the intent of the section. A further amendment is made by this clause to provide a head of power to allow the regulations to prescribe a levy for each gaming machine the application is seeking to have authorised for use under the licence.

Clause 20. Section 42 amended

This clause amends section 42 by omitting references to the Commission, Chairperson and Director, and replacing with references to the Director-General. This clause also inserts subsection (1A) which allows a determination to reduce the number of gaming machines to be decreased either by application under

subsection (3) or on the Director-General own initiative. The clause also amends the requirements for notice to the licensee in instances where the decrease is proposed by the Director-General or another party to ensure natural justice is afforded to the licensee.

Clause 21. Section 49 amended

This clause amends section 49 by omitting references to the Commission, Chairperson and Director, and replacing with references to the Director-General. This clause also amends section 49 to ensure the Director-General can take appropriate action in the form of directions, suspension or cancelation of licence where an answer or submission provided by the licensee is not satisfactory.

Clause 22. Section 57A amended

This clause amends section 57A by omitting subsection 57A(2).

Clause 23. Section 165 amended

This clause amends section 165 by omitting references to the Commission, Chairperson and Director, and replacing with references to the Director-General.

The Clause also amends subsection 165(11) to ensure natural justice is afforded to the licensee.

Clause 24. Part 9A inserted

This clause inserts Part 9A and provisions that allow for review by the Northern Territory Civil and Administrative Tribunal of reviewable decisions.

The provisions provide for relevant definitions and confers jurisdiction on the Northern Territory Civil and Administrative Tribunal.

Clause 25. Section 192 replaced

This clause repeals section 192 and replaces it with a new section that provides instances where the Director-General is able to refund amounts. In addition to the circumstances already provided for, the Director-General will be able to refund a prescribed levy paid under section 24 or section 41 where a decision on the application determined the number of machines authorised to be used under the licence was less than the number of machines sought in the applications, or the application was refused entirely.

Clause 26. Section 193 repealed

This clause repeals section 193 as reviewable decisions of the Director-General will be reviewed by the Northern Territory Civil and Administrative Tribunal as provided in Part 9A of the Act.

Clause 27. Section 194 amended

This clause amends section 194 by replacing references to Commission and Director with Director-General, and inserts a reference to the head of power to prescribe a levy as provided for in section 24 and 41.

Clause 28. Part 11 and Schedule inserted

This clause inserts Part 11 Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*. This clause also inserts a Schedule of Reviewable decisions to give effect to the definition of Reviewable decision under section 166A.

Clause 29. Act further amended

This clause gives effect to Schedule 2 which provides for the replacement of the words Commission and Director for Director-General in a number of sections of the *Gaming Machine Act*.

Part 4 Amendment of Kava Management Act

Clause 30. Act amended

This clause provides for the amendment of the *Kava Management Act*.

Clause 31. Section 3 amended

This clause removes the definitions of approved, Chairperson, Commission, Director and hearing, and inserts new definitions for approved form, affected person, reviewable decision and Director-General as established in the *Licensing (Director-General) Act 2014*.

Clause 32. Sections 6 and 7 replaced

This clause repeals section 6, which provided the powers and functions of the Commission, Chairperson and Director, and section 7 which provided for delegation from the Minister. This clause inserts a new section 7 which provides for delegation from the Minister to the Director-General or the Chief Health Officer.

Clause 33. Section 64 replaced

This clause repeals section 64 and inserts a new section 64 which provides for the consideration and decision by the Director-General in respect of an application for a kava licence. The removal of the hearing requirement underpins the new framework, however, the Director-General continues to be required to consider all objections, comments and reports regarding the application, in addition to any additional material that may be prescribed.

Clause 34. Section 65 amended

This clause amends section 65 to omit references to the Commission making decisions and what it must do following the making of such decision, and to insert the references to the Director-General now making the decisions and what it must do.

Clause 35. Sections 68 to 70 replaced

This clause repeals sections 68, 69 and 70 which relate to the conduct of a hearing by the Commission where a licensee is not satisfied with the Commission's decision to vary a licence under section 67. The clause inserts a new section 68 which provides for when a variation to the licence will take effect, noting the rights of the applicant to seek a review of the decision in situations where it is made under delegation from the Director-General exists in the *Licensing (Director-General) Act 2014*.

Clause 36. Sections 73 and 74 replaced

This clause repeals sections 73 and 74 and replaces them with a new section 73 outlining the process for making and dealing with a complaint. The process ensures procedural fairness for a licensee and also ensures the Director-General can make the necessary investigations to obtain all relevant information.

Clause 37. Section 76 amended

This clause amends section 76 by omitting references to the Commission, Chairperson and Director, and replacing with references to the Director-General. The clause makes necessary amendments to allow the Director-General to suspend or vary a licence.

Clause 38. Sections 77 and 78, Part 9, Division 4 and Part 10 replaced

This clause repeals sections 77 and 78 which relate to the process for dealing with an application for cancellation of a licence. These sections are replaced with a new section 77 which provides for a substantially similar process to that which was provided in 77 and 78, without the need to

conduct a hearing. The new section 77 provides for clear grounds upon which the Director-General can cancel a licence, and a process the Director-General must follow to afford the licensee procedural fairness before taking action to cancel the licence. This process replaces the need to hold a hearing. The clause also repeals Part 9, Division 4 as there is no longer a requirement to hold a hearing. The clause also repeals and replaces Part 10 with the process for reviewing decisions.

Clause 39. Section 83A inserted

This clause inserts section 83A which allows the Director-General to approve forms that may be required under the Act, thereby providing a more efficient means of administering the Act.

Clause 40. Part 12 inserted

This clause inserts Part 12 Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*.

Clause 41. Schedule 2 Inserted

This clause inserts Schedule 2 Reviewable decisions into the Act for the purposes of section 78 and 81 of the Act.

Clause 42. Act further amended

This clause gives effect to Schedule 3 which provides for the replacement of the words Commission, Chairperson and Director for Director-General in a number of sections of the Act.

Part 5 Amendment of Liquor Act

Clause 43. Act amended

This clause provides for the amendment of the *Liquor Act*.

Clause 44. Section 4 amended

This clause removes the definitions of assessor, Chairperson, Commission, Director, Deputy Director, hearing, member and prohibition notice, and inserts a new definition of Director-General as established in the *Licensing (Director-General) Act 2014*. This clause also inserts new definitions for approved forms and decision notice which allows for a more efficient administration of the Act. New definition of reviewable decision is also inserted for clarity.

Clause 45. Section 19A inserted

This clause inserts section 19A which makes it an offence to obstruct an inspector. Given there will no longer be a hearing process under the Act, it will become important that an inspector who is investigating an application or complaint is able to obtain all relevant information to provide to

the decision maker. This section provides this ability to the inspector without infringing on a person's right to refuse where they have a reasonable excuse.

Clause 46. Sections 20 and 22 replaced

This clause repeals section 20 and replaces it with a new section 20 that prevents an Assessor from acting where they have an interest in the matter which the

Director-General is seeking advice. The clause also repeals section 22 and replaces it with a new section 22 that limits the ability of the Director-General to delegate its power in a similar way to the repealed section.

Clause 47. Section 28 amended

This clause amends section 28 to ensure that the Director-General takes into account all matters, including objections, when undertaking an assessment of an application under the Act, in a similar way that the Commission was required to prior to it being repealed.

Clause 48. Section 29 replaced

This clause repeals section 29 as it dealt with the way the Commission made a decision after considering an application, including when a hearing was required to be held. A new section 29 is inserted which provides the actions required of the Director-General following consideration of an application, including who is provided with a decision notice.

Clause 49. Section 32 repealed

This clause repeals section 32 as the requirement to consider objections in determining conditions now forms part of section 29 of the Act.

Clause 50. Section 32A amended

This clause amends section 32A by omitting subsections (1),(2) and (3) and replacing them with similar provisions that require an application to be made to the Director-General for a variation, that requires the advertising in a manner required by the Director-General if in the public interest to do so. This clause also amends section 32A to require the Director-General to consider any objection lodged in respect of the variation, and any response to the objection by the applicant, in making its decision to vary or refuse to vary conditions.

Clause 51. Section 33 replaced

This clause repeals section 33 as the Commission will no longer exist, and replaces it with a similar clause that provides the Director-General can vary conditions of a licence on its own initiative. As no hearings will now be required, the new section ensures that the affected licensee is afforded procedural fairness by providing them with an opportunity to respond to the variations being proposed, and the reasons for the variation. The Director-General is then bound to consider the licensee's response and provide a decision notice once a decision has been made.

Clause 52. Section 33H replaced

This clause repeals section 33H as the Commission will no longer exist, and replaces it with a requirement that the Director-General provides a decision notice once it has made a decision in respect of special conditions of certain licences about payment. This amendment replicates the repealed sections requirement to provide reasons for decision, by requiring a decision notice to be provided.

Clause 53. Section 43 replaced

This clause repeals section 43 as the Commission will no longer exist, and replaces it with a similar provision that requires the Director-General to consider an application and decide an application for a transfer of licence, and to provide a decision notice to the applicant.

Clause 54. Section 46A amended

This clause amends section 46A by omitting references to the Commission and replacing it with the Director-General. Subsection (2) is also amended to provide that advertising of an application is to be published in the way specified by the Director-General which provides greater flexibility for publishing. This clause also amends the section by ensuring the affected licensee is afforded procedural fairness by providing them with an opportunity to respond to any objections raised during the publication period. The Director-General is then bound to consider the objection and the licensee's response, and provide a decision notice when the decision had been made.

Clause 55. Section 47I and 47J repealed

This clause repeals sections 47I and 47J as the Commission will no longer exist. Through other amendments, the Director-General will be required to consider all objections, and replies to those objections, in the decision making process, and review rights will exist under the *Licensing (Director-General) Act 2014* in the context of delegated decisions, or under the *Liquor Act* for review by the Northern Territory Civil and Administrative Tribunal.

Clause 56. Section 48A amended

This clause amends s46A by omitting the reference to the Commission's decision making power and replacing it with the Director-General's decision making power. This clause also inserts subsection (2A) which requires the Director-General to give a decision notice to the licensee.

Clause 57. Section 49A amended

This clause amends section 49A by omitting the requirement of the Commission to hold a hearing. This clause also inserts into section 49A the requirement for the Director-General to afford procedural fairness to the affected licensee by notifying them the application has been made and invite them to make submissions in response to the application, and for these submissions to be included in the matters to be considered before making a decision.

Clause 58. Part V repealed

This clause repeals Part V of the *Liquor Act* as the Commission has been repealed and there will no longer be a requirement to hold a hearing.

Clause 59. Section 59 replaced

This clause repeals and replaces section 59 to require the Director-General to make a decision on a special licence application, and provide a decision notice to the applicant. This section also allows the Director-General to impose any conditions on the special license it thinks necessary.

Clause 60. Sections 60 to 63 replaced

This clause repeals sections 60 to 63 of the Act as they have been replaced by section 59. This clause also inserts a new section 63 which empowers the

Director-General to revoke a special licence in the same way as the Commission had been empowered under the repealed section 63.

Clause 61. Section 65 amended

This clause omits subsection 65(2) and replaces it with a section that clearly articulates the objectives of the conferral of power to the Director-General for the enforcement of provisions for licences and special licences.

Clause 62. Section 68 amended

This clause amends section 68 by replacing references to the Commission and Director with Director-General. The defined terms approved form and decision notice are also incorporated into this section. This clause also inserts the ability for the Director-General to issue a formal warning letter to the licensee, which had previously only been issued as defined disciplinary action. The section provides that a complaint must be lodged, accepted and investigated before the Director-General takes action under section 68 (including disciplinary action under section 69) and requires decision notices to be issued.

Clause 63. Section 69 amended

This clause amends section 69 of the Act by omitting references to the Commission and Director and replacing with Director-General, and the obligation to hold a hearing before disciplinary action can be taken. This clause amends section 69 to ensure a licensee is afforded procedural fairness by requiring a written notice outlining the proposed disciplinary action to be taken and the grounds for taking such action being given to the licensee, and providing the licensee an opportunity to make submissions. The Director-General can only take disciplinary action once it has considered the submissions of the licensee, is satisfied on the balance of probabilities that a ground for taking such action exists, and that the disciplinary action is appropriate in relation to that ground. These are similar to the burden of proof that existed for the Commission when a matter was decided by hearing. Where the Director-General decides to take disciplinary action, it must provide the licensee with a decision notice.

Clause 64. Sections 71 and 72 repealed

This clause repeals section 71 as notification of proposed action is now provided for in section 69. This clause also repeals section 72 which relates to appeals against the Commission's decision. This section has been repealed as an affected person will, under a new section 120ZB, be able to seek administrative review by the Northern Territory Civil and Administrative Tribunal of the Director-General's decision to take disciplinary action. Appeal rights from the Tribunal will be provided for in the Tribunal legislation, and will allow an appeal to the Supreme Court on the same basis as was provided in the repealed section 72.

Clause 65. Section 74 amended

This clause amends section 74 by replacing references to the Commission with the Director-General, and identifying that a decision to declare a restricted area can be made following an application.

Clause 66. Section 76AA inserted

This clause inserts section 76AA which allows the Director-General to propose a declaration of a restricted area on its own initiative.

Clause 67. Sections 77 to 80 replaced

This clause repeals sections 77 to 80 and replaces them with sections 77, 78 and 79 that outline the process for a declaration of a restricted area that is clearer. The new provisions require the Director-General to do all things necessary to obtain the views of interested persons, and to consider any submissions received from them before a decision is made.

Clause 68. Section 81 amended

This clause amends section 81 to replace references to the Commission with Director-General. The amendments also ensure that when the Director-General makes a decision on a restricted area, it has considered all opinions it is required to seek by sections 77 to 79, and requires a decision notice to the applicant where it refuses to make the declaration being sought.

Clause 69. Section 84 replaced

This clause repeals section 84 and replaces it with a new section 84 that allows the Director-General to revoke a declaration of a general restricted area in a similar way to which the Commission was able to revoke such a declaration. This section has also been amended to include a requirement that where an application is made seeking such a revocation, that a decision notice is provided by the Director-General to the applicant.

Clause 70. Section 86C amended

This clause amends section 86C to replace references to the Commission with Director-General and continues to provide a broad power of inquiry, investigation and consultation to ensure an informed decision is made. The process applies to applications, or a proposal, the latter being at the Director-General's own initiative. The advertising provisions have also been amended to allow for greater flexibility for the Director-General to determine the way in which the application or proposal would be advertised.

Clause 71. Section 86E amended

This clause amends section 86E to replace references to the Commission with Director General, and requires the Director-General to provide a decision notice to the applicant where it decides to refuse an application.

Clause 72. Section 86G replaced

This clause repeals section 86G and replaces it with a new section 86G which allows the Director-General to revoke or amend a public restricted area declaration provided that it follows the process set out in section 86B to 86F.

Clause 73. Section 92 replaced

This clause repeals section 92 and replaces it with a new section 92 that empowers the Director-General to make a decision to issue a permit subject to conditions, or refuse the application, similar to the repealed section. The Director-General is required to provide a decision notice to an applicant in instances where it refuses to issue the permit.

Clause 74. Section 95 amended

This clause amends section 95 by replacing references to the Director with the Director-General, and adding the definition of obstruct to ensure the conduct intended to be captured by this term is consistent with other obstruction offences in the Act, notably section 19A and 101AN.

Clause 75. Section 101AN amended

This clause amends section 101AN by adding the definition of obstruct to ensure the conduct intended to be captured by this term is consistent with other obstruction offences in the Act, notably section 19A and 95.

Clause 76. Section 101E amended

This clause amends section 101E to replace references to the Commission with Director-General, and requires the Director-General to provide a decision notice to the applicant where it decides to refuse an application.

Clause 77. Section 101K amended

This clause amends section 101K to replace references to the Commission with Director-General, and requires the Director-General to provide a decision notice to the applicant where it revokes a declaration.

Clause 78. Section 101ZF amended

This clause amends section 101ZF to replace references to the Commission with Director-General, and requires the Director-General to provide a decision notice to the applicant as soon as practicable after deciding the application.

Clause 79. Section 101ZH repealed

This clause repeals section 101ZH as a hearing will no longer be required to be held in relation to an application for an exemption certificate.

Clause 80. Section 119 amended

This clause amends section 119 to replace Commission and Director with Director-General. It also amends the section to give the Director-General the ability to specify the way an application is to be advertised when they consider it in the public interest to do so. The amendments remove the requirement to hold a hearing, but do require the Director-General to comply with section 47G where objections are received. The Director-General is required to consider the objections and any reply provided by the applicant to those objections before making a decision, thereby ensuring procedural fairness. The Director-General is required to have regard to the objects of the Act when making a decision, and must provide a decision notice to each objector and the applicant.

Clause 81. Section 120D amended

This clause amends section 120D by replacing references to Director with Director-General, and to require the Director-General to provide a decision notice to the applicant.

Clause 82. Part XAC inserted

This clause inserts a new Part XAC dealing with reviewable decisions. The amendments provide necessary definitions, and confers jurisdiction on the Northern Territory Civil and Administrative Tribunal to review reviewable decisions. Reviews of decisions made under a delegation are provided for under the *Licensing (Director-General) Act 2014*, and a further amendment is made to identify particular decisions which do not have an affected person as defined.

Clause 83. Section 120ZE inserted

This clause inserts section 120ZE to ensure that a decision maker under the *Liquor Act* is able to access all information that is relevant for the purpose of performing function and exercising powers under the Act, particularly in light of hearings no longer being conducted.

Clause 84. Section 122 repealed

This clause repeals section 122 as the *Antisocial Behaviour (Miscellaneous Amendment) Act 2006* establishing SMART has been repealed.

Clause 85. Section 126 replaced

This clause repeals section 126 and replaces it with a new section 126 that allows the Director-General to approve forms, thereby creating the definition relied on in section 4 of the Act.

Clause 86. Parts XIII and XVI repealed

This clause repeals Parts XIII and XVI as the *Antisocial Behaviour (Miscellaneous Amendment) Act 2006* has been repealed.

Clause 87. Section 146 amended

This clause amends section 146 by providing a definition of Commission for the purposes of the transitional matters.

Clause 88. Part XIX and Schedule inserted

This clause inserts Part XIX Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*. This clause also inserts the Schedule which identify the decisions of the Director-General which and reviewable by the Northern Territory Civil and Administrative Tribunal.

Clause 89. Act further amended

This clause gives effect to Schedule 4 which provides for the replacement of the word Commission for Director-General in a number of sections of the Act.

Part 6 Amendment of Private Security Act

Clause 90. Act amended

This clause provides for the amendment of the *Private Security Act*.

Clause 91. Section 3 amended

This clause omits the definitions of approved and licensing authority, and inserts a new definition of Director-General as established in the *Licensing (Director-General) Act 2014*. This clause also inserts new definitions for approved forms, decision notice and reviewable decision which allows for a more efficient administration of the Act, and a new definition of Tribunal being the Northern Territory Civil and Administrative Tribunal.

Clause 92. Section 15 amended

This clause amends section 15 by omitting references to licensing authority and replacing them with Director-General. This clause also amends section 15 by inserting subsection (7A) to ensure that where the Tribunal has previously granted a licence, despite the applicant having been convicted of a disqualifying offence, the conviction can be disregarded for the purposes of subsection (7). This will prevent applicants having to appeal a decision not to renew a licence where the Tribunal

(or previously the Local Court) had previously ruled that a licence could be issued.

Clause 93. Section 18 amended

This clause amends section 18 by omitting the term licensing authority and replacing it with Director-General. The section is also amended to provide that the

Director-General will provide a decision notice to the applicant regarding any conditions imposed on the licence, or reasons why the licence was refused. While the right of appeal is omitted in this section, it is retained by the insertion of Part 6B of the Act.

Clause 94. Section 20 amended

This clause amends section 20 by omitting the term licensing authority and replacing it with Director-General. The section is also amended to provide that the

Director-General will provide a decision notice to the licensee where it decides to amend the conditions of a licence. While the right of appeal is omitted in this section, it is retained by the insertion of Part 6B of the Act.

Clause 95. Section 25 amended

This clause amends section 25 by omitting the term licensing authority and replacing it with Director-General. The section is also amended to provide that the

Director-General will provide a decision notice where it refuses to replace a licence. While the right of appeal is omitted in this section, it is retained by the insertion of Part 6B of the Act.

Clause 96. Section 27 amended

This clause amends section 27 by omitting the term licensing authority and replacing it with Director-General. Section 27 is also amended to provide that the

Director-General will provide a decision notice where it refuses to take action. While the right of appeal is omitted in this section, it is retained by the insertion of Part 6B of the Act.

Clause 97. Sections 30 to 34 repealed

This clause repeals sections 30 to 34 as there will no longer be a right of appeal to the Local Court. The right of review now lies with the Tribunal and is provided for in Part 6B of the Act.

Clause 98. Section 53D amended

This clause amends section 53D by omitting the term licensing authority and replacing it with Director-General. The section is also amended to provide that the Director-General will provide a decision notice of its determination to the person who made the complaint and the security provider involved. While the right of appeal is omitted in this section, it is retained by the insertion of Part 6B of the Act.

Clause 99. Section 53E replaced

This clause repeals section 53E and replaces with Part 6B providing a process of review. Part 6B establishes a right of review by the Northern Territory Civil and Administrative Tribunal, which reflects the right of appeal to the Local Court which has now been repealed. This Part establishes relevant definitions including reviewable decision and affected person, and confers jurisdiction on the Northern Territory Civil and Administrative Tribunal. In addition, this clause inserts section 53G which provides that an applicant for a licence who was refused a licence because they have been convicted of an offence mentioned in section 15(7), is able to apply to the Tribunal for a review of that decision, which reflects the right of appeal to the Local Court which has now been repealed. Internal review of delegated decisions is dealt with under the *Licensing (Director-General) Act 2014*.

Clause 100. Section 57 amended

This clause amends section 57 to clarify what an excused conviction is in instances when a person commits an offence when hiring a crowd controller with a disqualifying offence.

Clause 101. Section 61 replaced

This clause repeals section 61 and replaces it with a provision that allows the Director-General to approve forms, which creates the definition relied on in section 3 of the Act.

Clause 102. Part 8 and Schedule inserted

This clause inserts Part 8 Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the licensing authority has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*.

This clause also inserts a Schedule which reviewable decisions of the Director-General and who is an affected person of that decision for the purposes of Part 6B.

Clause 103. Act further amended

This clause gives effect to Schedule 5 which provides for the replacement of the term licensing authority for Director-General in a number of sections of the

Private Security Act.

Part 7 Amendment of Prostitution Regulation Act

Clause 104. Act amended

This clause provides for the amendment of the *Prostitution Regulation Act*.

Clause 105. Section 3 amended

This clause omits the definitions of approved form, Chairperson, Commission, Director and Tribunal, and inserts a definition of Director-General as established in the *Licensing (Director-General) Act 2014*. This clause also inserts new definitions for approved form, decision notice, reviewable decision and Tribunal which provides clarity and allows for a more efficient administration of the Act. .

Clause 106. Section 28 amended

This clause amends section 28 by omitting references to Commission and replacing with Director-General.

Clause 107. Section 29A inserted

This clause inserts section 29A which requires the Director-General to provide a decision notice once it has made a decision under section 29.

Clause 108. Section 30 amended

This clause amends section 30 to reflect the new avenues of review available to an applicant where their application is refused by the Director-General. The ability for an applicant to appeal to the Supreme Court will now be found in the Northern Territory Civil and Administrative Tribunal Act.

Clause 109. Section 31 amended

This clause amends section 31 by omitting references to Commission and replacing with Director-General. This clause inserts subsection 31(6) which requires the Director-General to provide a decision notice once it has made a decision under that section.

Clause 110. Section 32 amended

This clause amends section 32 by omitting references to Commission and replacing with Director-General. This clause inserts sub section 32(5) which requires the Director-General to provide a decision notice once it has made a decision under that section.

Clause 111. Part 3, Divisions 4 to 6 repealed

This clause repeals Part 3, Divisions 4 to 6. Internal review of delegated decisions will be addressed in the *Licensing (Director-General) Act 2014*, while review generally is dealt with in Part 3A of the Act.

Clause 112. Sections 42A and 42B inserted

This clause inserts section 42A to provide the Director-General with the ability to gather relevant information to determine an application, which replaces the now repealed section 39. Section 42B is also inserted which provides the Minister with the ability to make written submissions on any matter being considered by the Director-General, which replaces the now repealed section 47A.

Clause 113. Section 43 amended

This clause amends section 43 by omitting references to Commission and replacing with Director-General. This clause also amends subsection (3) to require the Director-General to provide a decision notice to the licensee where it refuses to remove or vary a condition or restriction, and a decision notice to the Minister where it decides to remove or vary a condition or restriction.

Clause 114. Section 44 replaced

This clause repeals section 44 and replaces it with a new section 44 that requires the Director-General to notify the Commissioner of Police of any decisions made by it, or a delegate, or by the Northern Territory Civil and Administrative Tribunal upon review.

Clause 115. Sections 47 and 47A repealed

This clause repeals sections 47 and 47A as the rights of the Minister are now dealt with in section 42B.

Clause 116. Part 3A inserted

This clause inserts Part 3A which establishes a right of review by the Northern Territory Civil and Administrative Tribunal which reflects to the right of appeal to the Escort Agency Licensing Appeals Tribunal which has now been repealed. This Part establishes relevant definitions including reviewable decision and affected person, and confers jurisdiction on the Northern Territory Civil and Administrative Tribunal. Internal review of delegated decisions is dealt with under the *Licensing (Director-General) Act 2014*.

Clause 117. Section 49A replaced

This clause repeals section 49A and replaces it with a provision that allows the Director-General to approve forms, which creates the definition relied on in section 3 of the Act.

Clause 118. Section 52A inserted

This clause inserts section 52A providing for a protection from liability for people exercising a power under the Act which had previously been contained in section 47 which has now been repealed.

Clause 119. Part 5, Division 1 heading inserted

This clause inserts a new heading.

Clause 120. Part 5, Division 2 and Schedule inserted

This clause inserts Division 2 under Part 5, Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*. This clause also inserts a Schedule which identifies the decisions of the Director-General which are reviewable by the Northern Territory Civil and Administrative Tribunal.

Clause 121. Act further amended

This clause gives effect to Schedule 6 which provides for the replacement of the term Commission for Director-General in a number of sections of the *Prostitution Regulation Act*.

Part 8 Amendment of Racing and Betting Act

Clause 122. Act amended

This clause provides for the amendment of the *Racing and Betting Act*.

Clause 123. Section 89A amended

This clause amends definitions in section 89A to reflect the change in definition of Authority under the *Totalisator Licensing and Regulation Act*.

Clause 124. Section Part X heading replaced

This clause amends the heading.

Clause 125. Section 157 amended

This clause amends section 157 as the numbering and parts have changed.

Clause 126. Part X, Division 2 inserted

This clause inserts Division 2 into Part X to provide for transitional matters for the *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*.

Part 9 Amendment of Tobacco Control Act

Clause 127. Act amended

This clause provides for the amendment of the *Tobacco Control Act*.

Clause 128. Section 5 amended

This clause amends section 5 to omit references to Director and replace with Director-General as defined under the *Licensing (Director-General) Act 2014*.

Other definitions are also inserted including affected person and reviewable decision.

Clause 129. Section 41 replaced

The clause replaces section 41 with a new section 41 which establishes a right of review to the Northern Territory Civil and Administrative Tribunal of reviewable decisions of the Director-General, which reflects the right of review from the Commission to the Commission which has now been repealed. Relevant definitions are inserted by this clause as is the conferral of jurisdiction to the Northern Territory Civil and Administrative Tribunal. Internal review of delegated decisions are provided for under the *Licensing (Director-General) Act 2014*.

Clause 130. Part 10 inserted

This clause inserts Part 10 Transitional Matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*. This clause also inserts a Schedule which identified what are reviewable decisions of the Director-General.

Clause 131. Act further amended

This clause gives effect to Schedule 7 which provides for the replacement of the term Director for Director-General in a number of sections of the *Tobacco Control Act*.

Part 10 Amendment of Totalisator Licensing and Regulation Act

Clause 132. Act amended

This clause provides for the amendment of the *Totalisator Licensing and Regulation Act*.

Clause 133. Section 3 amended

This clause removes the definitions of authority, Chairperson, Director, Deputy Director, hearing and member, and inserts the definition of Director-General as established in the *Licensing (Director-General) Act 2014*. This clause also inserts a new definition for a decision notice, affected person and reviewable decision which is referred to throughout the Act.

Clause 134. Section 5 repealed

This clause repeals section 5 as the Director-General is now responsibility for the administration of the Act, and is established under the *Licensing (Director-General) Act 2014*.

Clause 135. Sections 8 and 9 replaced

This clause repeals section 8 and inserts a new section 8 that provides for the delegation power of the Director-General, which reflects the previous limitations provided in the repealed section. Section 9 is also repealed by this section as there is no longer a requirement to hold a hearing.

Clause 136. Section 10 amended

This clause amends section 10 to reflect the new position of the Director-General.

Clause 137. Section 11 repealed

This clause repeals section 11 as new Part 8 cover the issue of review.

Clause 138. Section 28 amended

This clause amends section 28 to replace references to the Director with Director-General and makes necessary amendments to clarify the powers of the Director-General.

Clause 139. Section 69 amended

This clause amends section 69 to replace references to the authority or Director with Director-General.

Clause 140. Section 70 replaced

This clause repeals section 70 and replaces it with a new section 70 that does not require a complaint to be dealt with by hearing, but which does require the

Director-General to afford a licensee with procedural fairness in respect of any action it proposes to take.

Clause 141. Sections 73 and 74 replaced

This clause repeals sections 73 and 74 and replaces it with a new section 73 that sets out the same grounds for cancellation in plainer terms. The new section 73 also establishes a process of procedural fairness to be afforded to the licensee where grounds to cancel exists, given the obligation to hold a hearing has been removed with the repeal of section 74.

Clause 142. Part 8 replaced

This clause repeals Part 8 as a hearing is no longer required to be held. A new Part 8 is inserted which establish the process of review of reviewable decisions.

The clause inserts relevant definitions of reviewable decision and affected person, and confers jurisdiction to the Northern Territory Civil and Administrative Tribunal for reviewable decisions. Internal review of delegated decisions is dealt with under the *Licensing (Director-General) Act 2014*. These sections replace repealed section 11.

Clause 143. Part 12 inserted

This clause inserts Part 12 Transitional matters for *Licensing (Director-General) Act 2014*. The Transitional provisions provide that where, at the time of commencement, the Commission has commenced active consideration of a matter, it will continue to consider it under the *Northern Territory Licensing Commission Act*.

Clause 144. Act further amended

This clause gives effect to Schedule 8 which provides for the replacement of the term Authority for Director-General in a number of sections of the

Totalisator Regulation Act.

Part 11 Amendment of other laws

Clause 145. Other laws amended

This clause gives effect to Schedule 9 which amends a range of other Acts which included a reference to the Commission.

Part 12 Repeals

Clause 146. Regulations repealed

This clause repeals Regulations which are no longer relevant as hearings are no longer required

Part 13 Expiry of Act

Clause 147. Expiry of Act

This clause provides for the expiry of the *Licensing (Repeals and Consequential Amendments) Act 2014*.