



AUSTRALIAN CAPITAL TERRITORY

Gambling and Racing Control Act 1999

No. 46 of 1999

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SCHEDULE 2

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AUSTRALIAN CAPITAL TERRITORY

Gambling and Racing Control Act 1999

No. 46 of 1999

An Act to provide for the administration of certain Acts relating to gambling and racing and to create the Gambling and Racing Commission

[Notified in ACT Gazette S54: 17 September 1999]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Gambling and Racing Control Act 1999*.

2. Commencement

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

3. Interpretation

In this Act, unless the contrary intention appears—

“casino” has the same meaning as in the *Casino Control Act 1988*;

“code of practice”—see section 18;

“Commission” means the Gambling and Racing Commission established under Part II;

“gaming” means playing or conducting any game of skill or chance, or of mixed skill and chance, in which money or any other valuable thing is staked or risked upon an event or contingency;

“gaming equipment” means any electrical, electronic or mechanical device or any other thing (other than chips) used, or suitable for use, in connection with gaming;

“gaming law”—

- (a) in relation to the Territory—has the meaning given by section 4; and
- (b) in relation to another jurisdiction—means a law of that jurisdiction that relates to gaming or racing;

“gaming officer” means—

- (a) a member of the Commission;
- (b) an authorised officer; or
- (c) any other person engaged, (whether as an officer or employee or otherwise) in the administration or enforcement of a gaming law;

“inquiry” means an inquiry conducted under Part V;

“penalty unit” means—

- (a) in relation to an offence committed by an individual—the amount set by section 33AA of the *Interpretation Act 1967*; and
- (b) in relation to an offence committed by a corporation—5 times the amount set by that section;

“racing” means racing conducted for the purpose of betting;

“reciprocating jurisdiction” means a jurisdiction, being the Commonwealth, a State or another Territory, under a law of which an officer of the jurisdiction is authorised to give to the Commission, for the purposes of the administration of a gaming law, information within the knowledge of the officer.

4. Gaming laws

For the purposes of this Act, the following are gaming laws:

- (a) this Act;
- (b) the *Betting (ACTTAB Limited) Act 1964*;
- (c) the *Bookmakers Act 1985*;
- (d) the *Casino Control Act 1988*;
- (e) the *Games Wagers and Betting-houses Act 1901* of New South Wales;
- (f) the *Gaming and Betting Act 1906* of New South Wales;
- (g) the *Gaming Machine Act 1987*;
- (h) the *Interactive Gambling Act 1998*;
- (i) the *Lotteries Act 1964*;
- (j) the *Pool Betting Act 1964*;
- (k) the *Racing Act 1999*;
- (l) the *Unlawful Games Act 1984*;
- (m) regulations made under an Act mentioned in paragraphs (a) to (l) (inclusive).

PART II—THE COMMISSION

Division 1—Establishment, functions and powers of the Commission

5. The Gambling and Racing Commission

- (1) There shall be an ACT Gambling and Racing Commission.
- (2) The Commission—
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal;

- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the Commission shall be kept in such custody as the Commission directs and shall not be used except as authorised by the Commission.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

6. Functions of the Commission

(1) The functions of the Commission are—

- (a) to administer the gaming laws;
- (b) to control, supervise and regulate gaming in the Territory; and
- (c) to perform functions and exercise powers given to the Commission by this or any other Act.

(2) Without limiting the generality of subsection (1), the functions of the Commission include the following:

- (a) regulating—
 - (i) the activities of casinos;
 - (ii) machine gaming;
 - (iii) lotteries;
 - (iv) racing, as provided in the *Racing Act 1999*;
 - (v) betting; and
 - (vi) interactive gambling;
- (b) approving gaming and racing activities;
- (c) monitoring and researching the social effects of gambling and of problem gambling;
- (d) providing education and counselling services;
- (e) engaging in community consultation, as appropriate, on matters related to its functions;
- (f) reviewing legislation and policies related to gaming and racing and making recommendations to the Minister on those matters;
- (g) monitoring, researching and funding activities relating to gaming and racing;

- (h) investigating and conducting inquiries into—
 - (i) issues related to gaming and racing; and
 - (ii) activities of persons in relation to gaming and racing, for the purpose of performing functions or exercising powers under a gaming law;
 - (i) collecting taxes, fees and charges imposed or authorised by or under gaming laws.
- (3) The Minister may direct the Commission by way of—
- (a) guidelines directing the way the Commission is to perform any of its functions; or
 - (b) directions in writing relating to particular matters.
- (4) Guidelines given under paragraph (3) (a) are disallowable instruments for the purposes of section 10 of the *Subordinate Laws Act 1989*.
- (5) A direction given under paragraph (3) (b) shall be included in the annual report of the Commission.

7. How the Commission must perform its functions

The Commission must perform its functions in the way that best promotes the public interest, and in particular, as far as practicable—

- (a) promotes consumer protection;
- (b) minimises the possibility of criminal or unethical activity; and
- (c) reduces the risks and costs, to the community and to the individuals concerned, of problem gambling.

8. Community consultation

(1) In performing its functions of reviewing legislation and policies in order to make recommendations to the Minister, the Commission must engage in community consultation.

(2) The Commission's annual report must describe the processes of community consultation used by the Commission.

9. Powers of Commission

The Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

10. Delegation

The Commission may delegate any of its functions and powers, except this power of delegation.

11. Personal liability

No liability attaches to a member of the Commission or other authorised officer for an act or omission done or made in good faith for the purpose of—

- (a) administering or enforcing a gaming law of the Territory; or
- (b) administering or enforcing a gaming law of a reciprocating jurisdiction in accordance with Division 3 of Part IV.

Division 2—Constitution of the Commission

12. Membership of the Commission

(1) The Commission shall consist of—

- (a) the Chief Executive; and
- (b) four other ordinary members of whom one shall have knowledge, experience or qualifications related to providing counselling services to problem gamblers.

(2) The appointments and terms of office of the members shall be in accordance with Schedule 1.

13. Meetings

The meetings of the Commission shall be in accordance with Schedule 2.

14. Staff

The staff of the Commission shall be employed under Division 3 of Part V of the *Public Sector Management Act 1994*.

15. Use of consultants and contractors

The Commission may engage such consultants and contractors as may be necessary or convenient in performing the Commission's functions.

16. Annual report

The Commission is a public authority for the purposes of the *Annual Reports (Government Agencies) Act 1995*.

**PART III—ROLE OF THE COMMISSION IN DEALING WITH
THE SOCIAL EFFECTS OF GAMBLING**

Division 1—Monitoring and research

17. Monitoring and research

(1) The Commission must monitor the social and economic effects of gambling and problem gambling in the Territory, including the need for counselling and other services.

(2) The Commission may conduct or sponsor research into the social and economic effects of gambling in the Territory.

(3) The Minister, or a resolution of the Assembly, may require the Commission to address particular matters when performing its functions under this section.

(4) The Commission must, at intervals of not less than 12 months, provide reports to the Minister on the results of its activities under this section.

(5) The Minister must cause a report under this section to be laid before the Assembly within 14 sitting days after receiving it.

Division 2—Dealing with social effects of gambling

18. Code of practice

(1) The regulations may prescribe 1 or more *codes of practice* to apply to specified classes of persons who are licensed or otherwise authorised to do things under a gaming law.

(2) A code of practice may include, but is not limited to, guidelines about the following:

- (a) advertising, promotional practices and the offering of inducements;
- (b) providing objective and accurate information about losing and winning;

- (c) limiting facilities that make it easy for a gambler to spend more than he or she originally intended, such as automatic teller machines, credit facilities and allowing persons to pay by cheque or credit card;
 - (d) providing mechanisms to allow problem gamblers to exclude themselves using a licensee's facilities for gambling;
 - (e) training staff to recognise and deal appropriately with people who are problem gamblers or are at risk;
 - (f) developing methods of dealing with staff or clients who are problem gamblers or are at risk.
- (3) The Commission must, for each licence under a gaming law that permits the licensee to conduct gambling, develop and review a code of practice to apply to the licensees and make recommendations to the Minister for appropriate regulations.

19. Education and counselling

- (1) The Commission may carry out or sponsor—
- (a) counselling for persons with gambling problems; or
 - (b) publicity and education programs—
 - (i) providing consumer information for different kinds of gambling; or
 - (ii) about the risks of gambling; or
 - (iii) about dealing with gambling problems.
- (2) The Minister, or a resolution of the Assembly, may require the Commission to address particular matters when performing its functions under this section.

PART IV—POWERS OF INVESTIGATION

Division 1—Authorised officers

20. Authorised officers

- (1) The members of the Commission are authorised officers.
- (2) The Chief Executive may appoint persons to be authorised officers.
- (3) A person who—

- (a) is engaged in the administration or enforcement of a gaming law of a reciprocating jurisdiction; and
- (b) is recognised in writing by the Chief Executive as an authorised officer for the purposes of this subsection;

is an authorised officer for the time and for the purpose specified in the writing.

(4) A gaming officer to whom the Chief Executive delegates functions under Division 2 is an authorised officer.

21. Identity cards for authorised officers

(1) An authorised officer shall be issued with an identity card in a form approved by the Commission—

- (a) containing the person's name and a photograph of the person; and
- (b) stating that the person is an authorised officer for the purposes of the gaming laws.

(2) When recognising an officer of a reciprocating jurisdiction for the purposes of subsection 20 (3), the Commission may approve the use of the identity card issued by that jurisdiction for the purposes of subsection (1).

(3) A person who has been issued with an identity card under subsection (1) and ceases to be an authorised officer shall return the card to the Commission as soon as practicable.

Penalty: 1 penalty unit.

Division 2—Powers of Investigation

22. Power to require information, instruments or records or attendance for examination

(1) The Commission may, for a purpose related to the administration or enforcement of a gaming law, by written notice served on a person, require the person—

- (a) to provide to the Commission (either orally or in writing) information that is described in the notice;
- (b) to attend and give evidence before the Commission or an authorised officer; or
- (c) to produce to the Commission a record or other document described in the notice that is in the person's custody or control.

(2) Where a notice to a person under subsection (1) is made in order to determine that person's tax liability, the notice shall state that the requirement is made for that purpose, but the Commission is not otherwise required to identify a person in relation to whom any information, evidence, record or other document is required under this section.

(3) The Commission—

- (a) may specify whether information or evidence to be provided or given under this section shall be given orally or in writing;
- (b) may require any information or evidence given in writing to be in the form of, or verified by, a statutory declaration; and
- (c) may require any information or evidence given orally to be given on oath or affirmation.

(4) A person shall not, without reasonable excuse, refuse or fail—

- (a) to comply with the requirements of a notice under this section within the period specified in the notice or any further period allowed by the Commission; or
- (b) to comply with any other requirement of the Commission as to the giving of evidence or the manner in which information or evidence is to be provided or given under this section.

Penalty: 50 penalty units.

(5) A person required to attend before an authorised officer to give oral evidence shall be paid expenses in accordance with the scale of allowances determined under section 139 of the *Taxation Administration Act 1999* for the purposes of subsection 82 (5) of that Act.

(6) Subsection (5) does not apply to a person, or a representative of a person, giving evidence in relation to the person's own obligations under a gaming law.

23. Powers of entry and inspection

(1) An authorised officer may, for a purpose related to the administration or enforcement of a gaming law, enter and inspect any premises at any reasonable time and do any of the following:

- (a) remain on the premises;
- (b) examine all documents and remove, or take copies of or extracts from, any document on behalf of the Commission;

- (c) inspect any gaming equipment and remove any gaming equipment that the officer believes on reasonable grounds to be connected with an offence against a gaming law;
 - (d) remove any thing that the officer believes on reasonable grounds might be used as evidence in a prosecution for an offence against a gaming law;
 - (e) require any person on the premises to answer questions or otherwise furnish information, including information as to the identity of the person or another person;
 - (f) require any person on the premises to give access to any document in the person's custody or control, and to—
 - (i) produce or display the document; or
 - (ii) provide a copy of the document or a version of it in some form other than that in which it is normally kept;in any printed, electronic or other form that it is reasonably practicable to provide;
 - (g) require any person on the premises to produce any gaming equipment in the person's custody or control;
 - (h) require the owner or occupier of the premises to provide the officer with such assistance and facilities as is or are reasonably necessary to enable the officer to exercise powers under this Part.
- (2)** An authorised officer who enters premises under subsection (1) and is requested by the occupier to identify himself or herself is not authorised to remain on the premises unless he or she produces his or her identity card to the occupier.
- (3)** The powers of entry and inspection under this section shall not be exercised in relation to premises, or a part of premises, used for residential purposes except with the consent of the owner or occupier of the premises or part.
- (4)** In this section—
- “occupier”, in relation to premises, includes a person apparently in charge or responsible for the premises.

24. Search warrant

(1) If a magistrate is satisfied, on the application of the Chief Executive supported by an affidavit or other sworn evidence, that there is a reasonable ground for suspecting that a document or gaming equipment relevant to an investigation into a possible offence against a gaming law, or any other thing constituting evidence of such an offence, may be found in certain premises, the magistrate may issue a warrant authorising an authorised officer together with any assistants named or described in the warrant—

- (a) to enter those premises, using such force as is necessary for the purpose;
- (b) to search the premises and to break open and search anything in the premises in which a document or any gaming equipment may be stored or concealed; and
- (c) to seize and remove, on behalf of the Commission—
 - (i) any document that appears to be relevant to the obligations of a person under a gaming law;
 - (ii) any gaming equipment that the officer believes on reasonable grounds to be connected with an offence against a gaming law; or
 - (iii) any other thing that the officer believes on reasonable grounds might be used as evidence in a prosecution for an offence against a gaming law.

(2) The powers conferred by this section are in addition to, and not in derogation of, any other powers conferred by law.

25. Use and inspection of documents and records produced or seized

(1) This section applies to a document that has been produced to the Commission or seized and removed by an authorised officer.

(2) The document may be retained for as long as is reasonably necessary to enable it to be inspected, copies of, or extracts or notes from it to be made, and for a determination to be made as to whether subsection (3) applies.

(3) If the document is required by the Commission as evidence for the purposes of legal proceedings, it may be retained until the proceedings are finally determined.

(4) The Commission shall permit a person who would be entitled to inspect the document if it were not in the possession of the Commission to inspect the document at any reasonable time.

(5) Nothing in this section prejudices a lien a person has on the document.

26. Use of goods produced or seized

(1) This section applies to any thing, other than a document, that has been produced to the Commission or seized and removed by an authorised officer.

(2) The thing may be retained for as long as is reasonably necessary to enable it to be inspected and for a determination to be made as to whether subsection (3) applies.

(3) If the thing is required by the Commission as evidence for the purposes of legal proceedings, it may be retained until the proceedings are finally determined.

(4) If the owner of the thing is convicted as a result of the legal proceedings, the court may direct that the thing be forfeited to the Territory, and in that case it may be disposed of as the Minister directs.

(5) If the thing is no longer required by the Commission, but the Commission is unable to return it to the owner within 12 months despite reasonable efforts to do so (for example because the owner has left the Territory) the Commission may direct that the thing be disposed of by auction and the proceeds held for the owner in lieu of the thing.

(6) Nothing in this section prejudices a lien a person has on the thing.

27. Self-incrimination

(1) A person is not excused from answering a question, providing information or producing a document, when required to do so under this Act, on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(2) If the person objects to answering the question, providing the information or producing the document on that ground, the answer, information or document is not admissible against the person in any criminal proceedings other than—

- (a) proceedings for an offence with respect to false or misleading statements, information or records; or
- (b) proceedings for an offence in the nature of perjury.

28. Hindering or obstructing authorised officers etc.

(1) A person shall not, without reasonable excuse, hinder or obstruct an authorised officer in the exercise of a power under this Division.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

(2) A person shall not, without reasonable excuse, refuse or fail to comply with a requirement of an authorised officer under this Division.

Penalty: 50 penalty units.

(3) A person is not guilty of an offence under this section arising from the entry of an authorised officer onto premises unless it is established that, at the material time, the authorised officer—

- (a) identified himself or herself as an authorised officer; and
- (b) warned the person that a refusal or failure to comply with the requirement constituted an offence.

29. Impersonating authorised officer

A person shall not impersonate or falsely claim to be an authorised officer.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

30. Access to public records without fee

The Commission is entitled to inspect and take copies of any public record kept under an Act or law of the Territory without payment of any fee that would otherwise be payable.

31. Investigation of complaints

(1) A person may lodge a complaint with the Commission, in a form approved by the Commission, about compliance with a gaming law.

(2) Where a complaint has been lodged under this section and investigated by the Commission, the Commission may give the complainant information about the results of the investigation if the Commission is satisfied that—

- (a) the complainant has a legitimate interest in the information; and

- (b) giving the information to the complainant would not unreasonably prejudice the privacy or other interests of another person.
- (3) The Commission shall include in its annual report a statistical summary of complaints lodged under this section and the results of any investigations resulting from them.

Division 3—Co-operation with other jurisdictions

32. Co-operative agreements

The Commission may make agreements with the responsible authorities of reciprocating jurisdictions governing co-operation under this Division.

33. Investigation at request of reciprocating jurisdiction

- (1) The Commission may authorise a gaming officer of the Territory or of a reciprocating jurisdiction to investigate a matter that relates to the administration or enforcement of a gaming law of that jurisdiction, on the request in writing of an officer of that jurisdiction who exercises powers or performs functions in relation to a gaming law of that jurisdiction.
- (2) This Act applies in relation to an investigation under this section as if it were an investigation into a matter relating to the administration or enforcement of a gaming law of the Territory.

Division 4—Secrecy

34. Interpretation

In this Division—

“gaming officer” includes any person who has acquired a confidential document or confidential information under a gaming law or as a result of exercising powers or performing functions under or in relation to a gaming law.

35. Gaming officers shall respect confidentiality

- (1) A person who is or has been a gaming officer shall not, otherwise than in the performance of the person’s duties as a gaming officer, make a record of any confidential information about another person.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

(2) A person who is or has been a gaming officer shall not disclose any information obtained under or in relation to the administration of a gaming law, except as permitted by this Part.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

(3) The Commission may require a gaming officer to make an oath or affirmation, in a manner and form specified by the Commission in writing, to maintain secrecy in accordance with this section.

(4) For the purposes of subsection (2), information disclosed to the Commission by a person performing a function, or exercising a power, under a law of the Commonwealth, a State or another Territory in relation to gaming or racing is information obtained under this Act.

36. Permitted disclosures of a general nature

(1) The Commission may disclose information obtained under or in relation to the administration of a gaming law that does not and is not likely to—

- (a) directly or indirectly identify a particular person; or
- (b) disclose matters concerning the personal affairs of a particular person.

(2) The Commission may disclose statistical information that does not satisfy subsection (1) if—

- (a) the reason that a person or his or her affairs might be identified is that there are few persons in particular categories; and
- (b) the Commission is satisfied that it is in the public interest to disclose that information.

37. Permitted disclosures to particular persons

A gaming officer may disclose information obtained under or in relation to the administration of a gaming law—

- (a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of the person to whom the information relates;
- (b) in connection with the administration or execution of a gaming law (including for the purpose of any legal proceedings arising out of a gaming law or a report of any such proceedings);
- (c) in accordance with a requirement imposed under an Act;

- (d) to any of the following persons, or to a person authorised to receive the information by any of the following:
 - (i) the Commissioner for Australian Capital Territory Revenue;
 - (ii) the Ombudsman;
 - (iii) the Commissioner of Police;
 - (iv) the Auditor-General;
 - (v) for the purpose of the administration or enforcement of a gaming law of a reciprocating jurisdiction—a person who or authority that exercises powers or performs functions under that law;
 - (vi) the Australian Statistician;
 - (vii) the National Crime Authority;
 - (viii) a person prescribed by the regulations for the purposes of this section; or
- (e) in accordance with section 31.

38. Prohibition on secondary disclosures of information

A person shall not disclose any information provided to the person by a gaming officer in accordance with this Act unless the disclosure is made with the consent of the Commission or so as to enable the person to exercise a function conferred on the person by law for the purpose of the enforcement of a law for protecting the public revenue.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

39. Further restrictions on disclosure

(1) A person who is or has been a gaming officer shall not be required—

- (a) to produce a confidential document in court; or
- (b) to disclose any confidential information to a court;

unless the court considers that it is necessary to do so for the purposes of the administration or execution of a gaming law.

(2) In this section—

“court” includes any tribunal, authority or person having power to require documents to be produced or questions to be answered.

PART V—INQUIRIES

40. Starting an inquiry

- (1) The Commission shall inquire into any matter referred to it by the Minister or under a gaming law.
- (2) The Commission may inquire into any other matter as it thinks appropriate.

41. Interested persons may make submissions

The Commission shall give any body or person directly affected by or interested in the subject matter of an inquiry an opportunity to make submissions.

42. Hearings to be in public

An inquiry by the Commission shall be heard in public unless the Commission, for good reason, determines otherwise.

43. Adjournments

The Commission may at any time adjourn an inquiry as it thinks appropriate.

44. Record of proceedings

The Commission shall keep a record of its proceedings.

45. Evidence

The Commission may inform itself in any way it thinks appropriate.

46. Report and recommendations

- (1) The Commission shall report its findings in an inquiry, other than an inquiry referred to in subsection (2), to the Minister and may make recommendations on its findings.
- (2) Where a gaming law requires the Commission to make an inquiry before taking a specified action, the Commission shall report its findings in the annual report.
- (3) The Minister shall table any reports and recommendations before the Legislative Assembly within 14 sitting days after receiving them.

47. Rules of the Commission

- (1) The Commission may make rules for the procedure of the Commission in an inquiry.
- (2) Rules made under this section constitute a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

PART VI—TAX ADMINISTRATION

48. Provisions of the Taxation Administration Act apply

The provisions of the *Taxation Administration Act 1999*, except for Divisions 1, 2 and 3 of Part 9, apply as if—

- (a) a reference to an authorised officer were a reference to an authorised officer under this Act;
- (b) a reference to the Commissioner were a reference to the Commission under this Act;
- (c) a reference to the Minister were a reference to the Minister in relation to this Act;
- (d) a reference to a tax law were a reference to a gaming law under this Act; and
- (e) a reference to a tax officer were a reference to a gaming officer under this Act.

49. Commission may perform functions under Commonwealth Act

The Commission may exercise the functions of a State taxation officer under Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

PART VII—CASINO CONTROL

50. Interpretation

In this Part, unless the contrary intention appears—

“Casino Act” means the *Casino Control Act 1988*.

51. Functions of the Commission in relation to the Casino Act

- (1) The functions of the Commission in relation to the Casino Act are—

- (a) to supervise the operation of the casino;
 - (b) to determine the operating times of the casino;
 - (c) to determine—
 - (i) the games that may be played in the casino; and
 - (ii) the rules under which those games may be played;
 - (d) to investigate, and make recommendations to the Minister on, the suitability of—
 - (i) a proposed developer, proposed proprietor or proposed casino lessee;
 - (ii) the casino licensee or a person nominated as the proposed casino licensee;
 - (iii) a person to whom the casino licence is proposed to be assigned; or
 - (iv) a person proposed to be appointed as an administrator for the purposes of section 51 of the Casino Act;
 - (e) to investigate, and make recommendations to the Minister on, matters referred to it by the Minister relating to the control of the casino or of the operations of the casino;
 - (f) of its own motion, to inquire into, and make recommendations to the Minister on, matters relating to the control of the casino or of the operations of the casino; and
 - (g) to make recommendations to the Minister as to the laws that should be made on matters relating to the control of the casino or of the operations of the casino.
- (2) In addition to the functions of the Commission under subsection (1), the Commission has such other functions as are conferred on it under the Casino Act.

PART VIII—RACING

52. Interpretation

In this Part, unless the contrary intention appears—

“Racing Act” means the *Racing Act 1999*.

53. Functions of the Commission in relation to the Racing Act

The Commission has the functions conferred on it under the Racing Act.

PART IX—MISCELLANEOUS

54. Regulations

- (1) The Executive may make regulations for the purposes of this Act.
 - (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.
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SCHEDULE 1

Subsection 12 (2)

APPOINTMENT AND TERMS OF OFFICE OF MEMBERS OF THE COMMISSION

1. Appointment of the Chief Executive

The Minister shall appoint a person employed under the *Public Sector Management Act 1994* to be the Chief Executive.

2. Appointment of ordinary members

- (1) The Minister shall appoint eligible persons to be ordinary members.
- (2) Subject to this clause, a person is eligible if the person—
 - (a) is of good character and has a good reputation in his profession or business; and
 - (b) has suitable experience and qualifications to perform the duties of a member.
- (3) A person is not eligible if—
 - (a) the person or the person's spouse has an interest in a business subject to a gaming law;
 - (b) the person has a close personal association with a person who is not of good character and business reputation;
 - (c) the person has a business or financial association with a person who is not of good character and business reputation;
 - (d) the person has been convicted of an offence against a gaming law or a corresponding law; or
 - (e) the person has, within the period of 5 years before the proposed appointment, been convicted of an offence punishable by imprisonment for 12 months or more.
- (4) In this section—
 - (a) a reference to a conviction includes a reference to an order made in relation to the person under section 556A of the *Crimes Act 1900*; and
 - (b) a reference to a corresponding law is a reference to a law of another jurisdiction, whether within or outside Australia, that regulates gaming or racing.

SCHEDULE 1—continued

(5) An ordinary member shall be appointed on a part-time basis.

3. Appointment of chairperson

(1) The Minister shall appoint an ordinary member as chairperson of the Commission.

(2) The Minister may appoint another ordinary member to act as chairperson when the chairperson is for any reason unable or unavailable to act in that capacity.

4. Acting appointments

(1) Subject to this section, the Minister may appoint an eligible person to act in the place of a member when the member is for any reason unable or unavailable to act in that member's capacity.

(2) An appointment under this section shall not authorise a person to act for a continuous period of more than 6 months.

(3) Anything done by or in relation to a person purporting to act under this section is not invalid merely because—

- (a) the occasion to act had not arisen or had ceased;
- (b) there was a defect or irregularity in an appointment; or
- (c) the appointment had ceased to have effect.

5. Term of office

(1) A member of the Commission is appointed for the term of office, not exceeding 3 years, specified in the instrument of appointment.

(2) A member of the Commission is eligible for re-appointment.

6. Removal of members

(1) The Minister shall terminate the appointment of a member of the Commission if the member—

- (a) resigns by giving written notice to the Minister;
- (b) ceases to be eligible for membership in the relevant capacity;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her

SCHEDULE 1—continued

creditors or makes an assignment of remuneration for their benefit; or

(d) fails to disclose an interest as required by clause 9.

(2) The Minister may terminate the appointment of a member of the Commission for misbehaviour or physical or mental incapacity.

7. Remuneration and allowances

(1) A member of the Commission shall be paid such remuneration and allowances as are prescribed in the regulations.

(2) Subsection (1) does not apply—

(a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the member; or

(b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the member.

(3) In this section—

“determination” means a determination under the *Remuneration Tribunal Act 1995*.

8. Leave of absence

The Minister may grant an ordinary member of the Commission leave of absence on such terms and conditions as to remuneration and otherwise as the Minister determines.

9. Disclosure of interests

(1) This section applies where a member has or acquires an interest that could conflict with the member’s proper performance of his or her functions as a member of the Commission.

(2) A member shall inform the Commission and the Minister when it becomes apparent that this section applies in relation to the member.

(3) The Minister may make such acting appointments as are necessary to allow the Commission to make a decision or take an action in the case without the member concerned.

SCHEDULE 2

Section 13

MEETINGS

1. The Commission shall hold such meetings as are necessary for the efficient performance of its functions.
2. Subject to this clause, meetings of the Commission shall be held at such times and places as the Commission from time to time determines.
3. The chairperson may at any time convene a meeting of the Commission.
4. The chairperson shall preside at all meetings of the Commission.
5. At a meeting of the Commission—
 - (a) the chairperson and 2 other members constitute a quorum;
 - (b) a question shall be decided by a majority of the votes of the members present and voting; and
 - (c) the chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
6. The Commission shall keep minutes of its proceedings.

[Presentation speech made in Assembly on 10 December 1998]