

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Gaming Machine Bill 2004

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2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Gaming Machine Bill 2004

A Bill for

An Act in relation to gaming machines, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Gaming Machine Act 2004*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Dictionary**

16 The dictionary at the end of this Act is part of this Act.

17 *Note 1* The dictionary at the end of this Act defines certain terms used in this
18 Act, and includes references (*signpost definitions*) to other terms
19 defined elsewhere.

20 For example, the signpost definition '*associated entity*—see the
21 *Electoral Act 1992*, section 198.' means that the term 'associated entity'
22 is defined in that section and the definition applies to this Act.

23 *Note 2* A definition in the dictionary (including a signpost definition) applies to
24 the entire Act unless the definition, or another provision of the Act,
25 provides otherwise or the contrary intention otherwise appears (see
26 Legislation Act, s 155 and s 156 (1)).

1 **4** **Notes**

2 A note included in this Act is explanatory and is not part of this Act.

3 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 **5** **Offences against Act—application of Criminal Code etc**

5 Other legislation applies in relation to offences against this Act.

6 *Note 1* *Criminal Code*

7 The Criminal Code, ch 2 applies to all offences against this Act
8 (see Code, pt 2.1).

9 The chapter sets out the general principles of criminal responsibility
10 (including burdens of proof and general defences), and defines terms
11 used for offences to which the Code applies (eg *conduct*, *intention*,
12 *recklessness* and *strict liability*).

13 *Note 2* *Penalty units*

14 The Legislation Act, s 133 deals with the meaning of offence penalties
15 that are expressed in penalty units.

1 **Part 2 Licences**
2 **Division 2.1 Definitions and important concepts**

3 **6 Definitions for pt 2**

4 In this part:

5 *initial licence application*—see section 9.

6 *licence amendment application*—see section 9.

7 **7 Meaning of *influential person* for Act**

8 (1) In this Act:

9 *influential person*, for a corporation—

10 (a) means any of the following:

11 (i) an executive officer of the corporation;

12 (ii) a related corporation;

13 (iii) an executive officer of a related corporation;

14 (iv) an influential owner; and

15 (b) includes a person who, though not mentioned in paragraph (a),
16 can exercise as much influence over the actions of the
17 corporation as someone mentioned in that paragraph.

18 *Note* *Corporation* includes a club (see dict).

19 (2) In this section:

20 *influential owner*, of a corporation, means a person who, whether
21 directly or through intermediary corporate ownership or nominees—

22 (a) can control 5% of the votes at an annual general meeting of the
23 corporation; or

1 (b) can control the appointment of a director of the corporation.

2 *related corporation* means a related body corporate under the
3 Corporations Act.

4 **8 What licence authorises**

5 (1) A licence authorises the licensee—

6 (a) to acquire and dispose of gaming machines; and

7 (b) to install gaming machines on the licensed premises under the
8 licence; and

9 (c) to operate the gaming machines stated in the licence on the
10 licensed premises.

11 *Note* This Act, and the licence, may limit or place conditions on the authority
12 under this section.

13 (2) However, a licence does not authorise the licensee to operate
14 gaming machines on more than 1 licensed premises under the
15 licence.

16 (3) The regulations may prescribe times when licensees must not
17 operate a gaming machine.

18 (4) A licence may authorise the use of only class B and class C gaming
19 machines.

1 **9 Kinds of applications under pt 2**

2 A person may apply to the commission for a licence (an *initial*
3 *licence application*) or amendment of a licence (a *licence*
4 *amendment application*).

5 *Note 1* If a form is approved under the Control Act, s 53D for an application,
6 the form must be used.

7 *Note 2* A fee may be determined under s 176 for this provision.

8 **10 Applications to be dealt with in order of receipt**

9 (1) This section applies to the following applications made in
10 accordance with this Act:

11 (a) initial licence applications;

12 (b) licence amendment applications if the application is to increase
13 the number of gaming machines authorised to be operated
14 under the licence.

15 (2) However, this section does not apply to the application if—

16 (a) the applicant has been authorised to operate 1 or more gaming
17 machines because of the application; or

18 (b) the application has been refused.

19 (3) Applications to which this section applies must be dealt with in the
20 order in which they are received by the commission.

21 (4) However, if an application does not contain sufficient information to
22 allow the commission to decide the application, subsection (3)
23 applies to the application as if it were received by the commission
24 when sufficient information is given to the commission to allow the
25 commission to decide it.

1 **Division 2.2 Issue of licences**

2 **11 Initial licence application**

- 3 (1) An initial licence application must—
- 4 (a) be in writing signed by the applicant; and
- 5 (b) state the applicant's name and address; and
- 6 (c) if the applicant is a corporation—state the name and address of
- 7 each director of the corporation; and
- 8 (d) state the address, and block and section number, of the
- 9 premises proposed to be licensed; and
- 10 (e) state the class, number, type, coin denomination and
- 11 percentage payout of gaming machines for which the licence is
- 12 sought; and
- 13 (f) for a corporation—name each influential person for the
- 14 corporation and the person's relationship with the corporation;
- 15 and
- 16 (g) be accompanied by each of the required documents for the
- 17 application.
- 18 (2) The following are *required documents* for every initial licence
- 19 application:
- 20 (a) a social impact assessment for the application;
- 21 (b) a scale plan of the premises, or part of the premises, proposed
- 22 to be licensed, showing where the gaming machines are to be
- 23 installed (the *proposed gaming area*);

- 1 (c) a copy of the rules the applicant has adopted to control the
2 operation of gaming machines on the premises proposed to be
3 licensed;
- 4 **Examples of what rules may cover**
- 5 1 how long a machine may be reserved for
6 2 prohibiting abuse of machines
7 3 payment of prizes by attendants
8 4 delay of payment if machine has malfunctioned or been interfered with
- 9 *Note* An example is part of the Act, is not exhaustive and may extend, but
10 does not limit, the meaning of the provision in which it appears (see
11 Legislation Act, s 126 and s 132).
- 12 (d) a copy of the control procedures the applicant has adopted to
13 control the operation of gaming machines on the premises
14 proposed to be licensed;
- 15 *Note* Control procedures are covered in s 97.
- 16 (e) any other documents required for the application under the
17 regulations.
- 18 (3) The following are also **required documents** for an initial licence
19 application by a club:
- 20 (a) a copy of the club's constitution;
- 21 (b) an alphabetical list of names and addresses of all current
22 members of the club, certified correct by the club secretary;
- 23 (c) a statement, signed by the club secretary, stating the grounds
24 on which the club claims to be an eligible club;
- 25 (d) evidence that a majority of the voting members of the club who
26 voted in a ballot conducted under the regulations voted for the
27 club having gaming machines.
- 28 (4) The regulations may require—
- 29 (a) a required document, or any information in a required
30 document, to be verified in a particular way; or

- 1 (b) an application to include particular information; or
- 2 (c) an application, or any information in an application, to be
- 3 verified in a particular way.
- 4 (5) The commission need not consider an initial licence application if—
- 5 (a) the application does not include any information required
- 6 under this section; or
- 7 (b) the application, or any information in the application, is not
- 8 verified as required under this section; or
- 9 (c) the application is not accompanied by a document required
- 10 under this section to accompany the application; or
- 11 (d) a document accompanying the application does not include any
- 12 information required under this section; or
- 13 (e) a document accompanying the application, or any information
- 14 in a document accompanying the application, is not verified as
- 15 required under this section; or
- 16 (f) any form required to be used for the application, or any
- 17 document accompanying the application is not used; or
- 18 (g) any requirement of a form required to be used for the
- 19 application, or any document accompanying the application, is
- 20 not complied with.

21 **12 Issue of licences**

- 22 (1) This section applies to an initial licence application under
- 23 section 11.
- 24 (2) The commission must issue a licence to the applicant if—
- 25 (a) the applicant is an eligible person;
- 26 *Note* Eligibility for individuals—see s 20. Eligibility for corporations—see
- 27 s 21.

- 1 (b) for an application by a club—a majority of the voting members
2 of the club who voted in a ballot conducted under the
3 regulations voted for the club having gaming machines; and
- 4 (c) the commission is satisfied about each additional mandatory
5 requirement under section 13 in relation to the application; and
- 6 (d) authorising the use of the number of gaming machines to be
7 authorised by the licence would not contravene section 35
8 (Maximum number of gaming machines allowed).
- 9 (3) However, the commission may refuse to issue a licence to a club if a
10 ground for refusing the licence exists under section 14.
- 11 (4) A licence may be conditional.
- 12 **Example**
13 a condition that a gaming area be separated from other parts of the premises
- 14 *Note* An example is part of the Act, is not exhaustive and may extend, but
15 does not limit, the meaning of the provision in which it appears (see
16 Legislation Act, s 126 and s 132).
- 17 (5) In deciding the number and kind of gaming machines to be allowed
18 under a licence, the commission must consider the following:
- 19 (a) the size and layout of the premises the application relates to;
20 (b) the size and layout of the proposed gaming area;
21 (c) for an application by a club—
- 22 (i) the number of club members worked out under the
23 regulations; and
- 24 (ii) the ratio of club members to the number and kinds of
25 gaming machines held by the licensee; and
- 26 (iii) the extent to which the club has contributed to, or is likely
27 to contribute to, the community, supported and benefited
28 the community;

- 1 (d) the social impact assessment for the application for the licence
2 and any submission made on the assessment within the 6-week
3 comment period under section 19;
4 (e) what the commission may allow under section 16.
5 (6) The commission may consider any other relevant matter.

6 **13 Additional mandatory requirements for issue of licence**

- 7 (1) The following requirements are mandatory requirements under
8 section 12 (2) (c) for an initial licence application:
9 (a) for a corporation (including a club)—the rules and control
10 procedures of the corporation to control the operation of
11 gaming machines are adequate to control that operation;
12 (b) the size and layout of the proposed gaming area are suitable for
13 the installation of gaming machines;
14 (c) the applicant is likely to comply with this Act;

15 **Example**

16 If the applicant previously held a licence, the commission may consider
17 how well the applicant complied with its conditions in assessing whether
18 the applicant is likely to comply with this Act.

19 *Note* An example is part of the Act, is not exhaustive and may extend,
20 but does not limit, the meaning of the provision in which it
21 appears (see Legislation Act, s 126 and s 132).

- 22 (d) if an on licence applies to the premises to which the application
23 relates—the premises are used by people mainly for drinking
24 alcohol;

- 1 (e) taking into consideration the social impact assessment for the
2 application and any submission made on the assessment within
3 the 6-week comment period under section 19, the issue of the
4 licence is appropriate.

5 **Example for par (e)**

6 the issue of a licence for the premises to which a general licence or on
7 licence applies may not be appropriate if it would adversely affect the
8 nature or character of the premises and the general use and enjoyment of the
9 premises

- 10 (2) In deciding whether a proposed gaming area is suitable for the
11 installation of gaming machines, the commission must consider the
12 safety and comfort of, and harm minimisation strategies for, patrons.

13 **14 Grounds for refusing initial licence application by club**

14 The commission may refuse to issue a gaming machine licence to an
15 applicant that is a club if satisfied that—

- 16 (a) payments for the rental or lease of the club's premises are
17 unreasonable or are related to the level of gaming machine
18 performance; or
- 19 (b) someone, other than the lessor or leasing agent, will receive a
20 payment or benefit during or at the end of a lease, agreement or
21 arrangement entered into by the club for its premises; or
- 22 (c) the election of a member of the club's management committee
23 or board has been decided, controlled or influenced in a
24 significant way, or to a significant degree, by—
- 25 (i) people who are not voting members of the club; or
- 26 (ii) only some voting members of the club; or
- 27 (d) the voting members of the club, taken as a group, do not have
28 complete control over the election of all members of the club's
29 management committee or board; or

- 1 (e) each voting member of the club does not have an equal right to
2 elect people, and to nominate or otherwise choose people for
3 election, to the club's management committee or board; or
- 4 (f) if the club does not own its premises—an executive officer or
5 employee of the club is also the club's lessor, or an associate of
6 the club's lessor; or
- 7 (g) an executive officer or employee of the club is a creditor, or an
8 associate of a creditor, of the club; or
- 9 (h) the club's management committee or board does not, for any
10 reason, have complete control over the club's business or
11 operations, or a significant aspect of the club's business or
12 operations; or
- 13 (i) the club is being, or may be, used as a device for individual
14 gain or commercial gain by someone other than the club.

15 **15 Form of licence**

- 16 (1) A licence must—
- 17 (a) state the number and kind of gaming machines that the licensee
18 is allowed to operate; and

19 **Example**

20 3 King of the Thames mk 2 gaming machines

21 *Note* An example is part of the Act, is not exhaustive and may extend,
22 but does not limit, the meaning of the provision in which it
23 appears (see Legislation Act, s 126 and s 132).

- 24 (b) state the premises, and each part of the premises (the ***gaming***
25 ***areas***), where the licensee is allowed to operate the gaming
26 machines; and
- 27 (c) include a schedule that contains the serial number of each
28 gaming machine authorised to be operated under the licence.
- 29 (2) The regulations may prescribe other requirements in relation to the
30 form of a licence.

- 1 **16 Restrictions on what commission may authorise—non-**
2 **clubs**
- 3 (1) This section applies if the commission must issue a licence under
4 section 12 on an initial licence application.
- 5 (2) The commission may issue a licence that authorises the use of no
6 more than 10 class B gaming machines, and no class C gaming
7 machines, if—
- 8 (a) a general licence applies to the premises to which the
9 application relates; and
- 10 (b) the premises have at least 12 rooms that are used for residential
11 accommodation for lodgers or guests.
- 12 (3) The commission may issue a licence that authorises the use of no
13 more than 2 class B gaming machines, and no class C gaming
14 machines, if—
- 15 (a) a general licence applies to the premises to which the
16 application relates; but
- 17 (b) the premises have fewer than 12 rooms (including no rooms)
18 that are used for residential accommodation for lodgers or
19 guests.
- 20 (4) The commission may issue a licence that authorises the use of 2
21 class B gaming machines, and no class C gaming machines, if an on
22 licence applies to the premises to which the application relates.
- 23 **17 No available gaming machines**
- 24 (1) This section applies to an applicant for an initial licence if—
- 25 (a) the maximum number of gaming machines allowed on all
26 licensed premises in the ACT has been reached; and

1 (b) the commission would otherwise have issued a licence to the
2 applicant.

3 *Note* The maximum number of gaming machines on all licensed premises in
4 the ACT is set under s 35.

5 (2) The commission must—

6 (a) tell the applicant that the maximum number of gaming
7 machines allowed on all licensed premises in the ACT has
8 been reached; and

9 (b) give the applicant a certificate (a *certificate of suitability*)
10 stating that the commission would otherwise have issued a
11 licence to the applicant for the number of gaming machines
12 stated in the certificate.

13 **Division 2.3 Social impact assessments**

14 **18 Social impact assessment**

15 (1) A social impact assessment for an initial licence application or
16 licence amendment application is a written assessment of the likely
17 economic and social impact of the operation of gaming machines
18 under the proposed licence or the licence as proposed to be
19 amended.

20 *Note* A social impact assessment is required for an initial licence application
21 (see s 11 (2) (a)) and certain licence amendment applications (see s 22
22 (2)).

23 (2) The regulations may make provision in relation to social impact
24 assessments, including, for example—

25 (a) the requirements that must be satisfied by a social impact
26 assessment; and

27 (b) the matters to be assessed or addressed by a social impact
28 assessment; and

1 (c) the information to be given in a social impact assessment.

2 *Note* An example is part of the Act, is not exhaustive and may extend, but
3 does not limit, the meaning of the provision in which it appears (see
4 Legislation Act, s 126 and s 132).

5 **19 Publication of social impact assessments by applicant**

6 (1) This section applies if an applicant for a licence or amendment of a
7 licence is required to provide a social impact assessment.

8 (2) The applicant must publish an advertisement about the application
9 in a newspaper published and circulating in the ACT.

10 *Note* If a form is approved under the Control Act, s 53D for an advertisement,
11 the form must be used.

12 (3) The advertisement must state that—

13 (a) the social impact assessment for the application will be
14 available for inspection by members of the public at the
15 commission's office during ordinary business hours for
16 6 weeks after a day stated in the advertisement (the *6-week*
17 *comment period*); and

18 (b) any written submissions about the social impact assessment
19 may be made to the commission within the 6-week comment
20 period.

21 (4) Before the beginning of the 6-week comment period, the applicant
22 must give the commission—

23 (a) the social impact assessment for the application; and

24 (b) a copy of the advertisement for the application mentioned in
25 subsection (2).

26 (5) The commission must make the social impact assessment available
27 for inspection by members of the public at the commission's office
28 during ordinary business hours during the 6-week comment period.

- 1 (6) The commission must not decide the application until the 6-week
2 comment period has ended.

3 **Division 2.4 Eligible people**

4 **20 Eligibility of individuals**

5 (1) For this Act, an individual, other than an applicant for a licence, is
6 an *eligible person* if there is not a disqualifying ground in relation to
7 the individual.

8 (2) For this Act, an individual who is an applicant for a licence is an
9 *eligible person* for the application if—

10 (a) the individual—

11 (i) is an adult; and

12 (ii) holds a general licence or on licence, and has held a
13 licence of that particular kind for a continuous period of
14 at least 1 year before the day the individual applies for a
15 gaming machine licence; and

16 (b) there is not a disqualifying ground in relation to the individual.

17 (3) Each of the following is a *disqualifying ground* in relation to an
18 individual:

19 (a) the individual has been convicted, or found guilty, within the
20 previous 5 years, whether in the ACT or elsewhere, of an
21 offence—

22 (i) involving fraud or dishonesty; or

23 (ii) punishable by imprisonment for at least 1 year; or

24 (iii) against a law about gaming; and

25 (b) the individual is an undischarged bankrupt or, at any time in
26 the last 5 years—

27 (i) was an undischarged bankrupt; or

- 1 (ii) applied to take the benefit of a law for the relief of
2 bankrupt or insolvent debtors; or
- 3 (iii) compounded with creditors or made an assignment of
4 remuneration for their benefit; or
- 5 (c) at any time in the last 5 years the individual was involved in
6 the management of a corporation when—
- 7 (i) the corporation became the subject of a winding-up order;
8 or
- 9 (ii) a controller or administrator was appointed.
- 10 (4) Despite subsection (3), the commission may decide that the
11 individual is an *eligible person* even though there is a disqualifying
12 ground in relation to the individual.
- 13 (5) However, the commission must not make a decision under
14 subsection (4) unless satisfied that—
- 15 (a) if the individual is an applicant for a licence—the operation of
16 gaming machines by the individual would not adversely affect
17 the public; and
- 18 (b) it is otherwise in the public interest that the individual be
19 treated as an eligible person.

20 **21 Eligibility of clubs and other corporations**

- 21 (1) A corporation is an *eligible person* if—
- 22 (a) each executive officer and influential person of the corporation
23 is an eligible person; and
- 24 (b) for a club—it is an eligible club; or
- 25 (c) for a corporation that is not a club—the corporation holds a
26 general licence or on licence, and has held a licence of that
27 particular kind for a continuous period of at least 1 year before
28 the day it applies for a gaming machine licence; and

- 1 (d) the corporation is not the subject of a winding-up order, and
2 has not been the subject of a winding-up order in the last 3
3 years; and
- 4 (e) a controller or administrator has not been appointed for the
5 corporation in the last 3 years.
- 6 (2) Despite subsection (1), the commission may decide that the
7 corporation is an *eligible person* even though a provision of that
8 subsection applies in relation to the corporation.
- 9 (3) However, the commission must not make a decision under
10 subsection (2) in relation to the corporation unless satisfied that—
- 11 (a) the operation of gaming machines by the corporation would
12 not adversely affect the public; and
- 13 (b) it is otherwise in the public interest that the corporation be
14 treated as an eligible person.

15 **Division 2.5 Licence amendments**

16 **22 Licence amendment applications**

- 17 (1) A licensee may apply in writing to amend the licence only—
- 18 (a) to increase or reduce the number of licensed gaming machines
19 allowed under the licence; or
- 20 (b) to change the licensed premises, whether structurally, by
21 changing a part of the premises where the licensee is allowed
22 to operate gaming machines or by moving the gaming
23 machines to different premises; or
- 24 (c) to change the percentage payout of a licensed gaming machine
25 used under the licence; or
- 26 (d) to change the basic stake denomination of a licensed gaming
27 machine used under the licence; or

- 1 (e) to change the kind of a licensed gaming machine used under
2 the licence; or
- 3 (f) to change a detail mentioned in the schedule to the licence.
- 4 (2) The application must be accompanied by—
- 5 (a) if the application is for a change to licensed premises—a plan
6 of the part of the premises where the machines are to be
7 installed; or
- 8 (b) for an application mentioned in subsection (1) (a) for an
9 increase in the number of machines or subsection (1) (b) to
10 change the licensed premises by moving the gaming machines
11 to different premises—a social impact assessment.

12 *Note* A fee may be determined under s 176 for this provision.

13 **23 Contents of licence amendment applications**

- 14 (1) A licence amendment application must—
- 15 (a) be in writing signed by the applicant; and
- 16 (b) set out the proposed amendment to the licence; and
- 17 (c) explain why the applicant is seeking the amendment.
- 18 (2) The regulations may require an application to include particular
19 information or be accompanied by particular documents.
- 20 (3) The commission need not decide the licence amendment application
21 if the application is not in accordance with this section.

22 **24 Substantive licence amendments**

- 23 (1) This section applies if a licensee has applied under section 22 for—
- 24 (a) an amendment of the licence mentioned in section 22 (1) (a) to
25 increase the number of gaming machines allowed under the
26 licence; or

- 1 (b) an amendment of the licence mentioned in section 22 (1) (b) to
2 move the gaming machines to different premises.
- 3 (2) However, this section does not apply to an amendment mentioned in
4 subsection (1) (b) if the commission is satisfied that—
- 5 (a) the gaming machines need to be moved from the licensed
6 premises for a good reason; and
- 7 (b) if the amendment is approved—
- 8 (i) the gaming machines are to be moved to different
9 premises temporarily; and
- 10 (ii) the gaming machines will not be operated in the different
11 premises.
- 12 (3) The commission must amend the licence in accordance with the
13 application if—
- 14 (a) for an application by a club—a majority of the voting members
15 of the club who voted in a ballot conducted under the
16 regulations voted for the amendment; and
- 17 (b) for an application for an amendment mentioned in section 22
18 (1) (a) to increase the number of gaming machines allowed to
19 be operated under the licence—
- 20 (i) the commission is satisfied that the size and layout of
21 each gaming area are suitable for the installation of the
22 number of extra gaming machines applied for; and
- 23 (ii) the authorisation of the number of extra gaming machines
24 would not exceed the maximum number of gaming
25 machines allowed on all licensed premises in the ACT;
26 and
- 27 (iii) if the licensee is a club—the commission is satisfied that
28 the number of club members worked out under the
29 regulations is sufficient to justify the number of extra
30 gaming machines; and
-

- 1 (iv) if the licensee is a club—the extent to which the club has
2 contributed to, or is likely to contribute to, the
3 community, and supported and benefited the community;
4 and
- 5 (c) for an application for an amendment mentioned in section 22
6 (1) (b)—the commission is satisfied that the size and layout of
7 the different premises are suitable for the operation of the
8 gaming machines allowed under the licence; and
- 9 (d) the commission is satisfied that, taking into consideration the
10 social impact assessment for the application and any
11 submission made on the assessment within the 6-week
12 comment period under section 19, the approval of the
13 amendment is appropriate; and
- 14 (e) the licensee does not owe an amount to the Territory under a
15 tax law or a gaming law.
- 16 (4) On an application for an amendment mentioned in subsection (1)
17 (a), if the commission must amend the licence under subsection (3),
18 the commission may amend the licence to allow the licensee to
19 operate more gaming machines than the licensee was previously
20 allowed to operate (the *new number* of gaming machines), but less
21 than the number applied for, if—
- 22 (a) the commission—
- 23 (i) is not satisfied that, taking into consideration the social
24 impact assessment for the application and any submission
25 made on the assessment within the 6-week comment
26 period under section 19, the approval of the amendment is
27 appropriate; but
- 28 (ii) is satisfied that amendment of the licence to allow the
29 new number of gaming machines to be operated at the
30 premises is appropriate; or

- 1 (b) amending the licence to allow the licensee to operate the
2 number of extra gaming machines applied for would
3 contravene section 35 (Maximum number of gaming machines
4 allowed) but allowing the new number would not.

5 **25 Technical licence amendments**

- 6 (1) This section applies if a licensee has applied under section 22 for an
7 amendment of the licence of the following kind:
- 8 (a) an amendment mentioned in section 22 (1) (a) to reduce the
9 number of gaming machines allowed under the licence;
- 10 (b) an amendment mentioned in section 22 (1) (b) to structurally
11 change a gaming area on licensed premises;
- 12 (c) an amendment mentioned in section 22 (1) (c), (d), (e) or (f).
- 13 (2) The commission must amend the licence in accordance with the
14 application.
- 15 (3) However—
- 16 (a) the commission must not amend the licence to structurally
17 change a gaming area on the licensed premise unless satisfied
18 that after the changes the gaming area will be suitable for the
19 installation of gaming machines; and
- 20 (b) the commission must not amend the licence in accordance with
21 an application under section 22 (1) (c), (d), (e) or (f) if the
22 commission considers that the change to the gaming machine
23 applied for is technically unsuitable.
- 24 (4) In deciding whether a change to a gaming machine is technically
25 unsuitable, the commission must take into account each technical
26 evaluation of the gaming machine.

27 *Note* **Technical evaluation** means a technical evaluation under s 69.

- 1 (5) In deciding whether a gaming area will be suitable for the
2 installation of gaming machines, the commission must consider the
3 safety and comfort of, and harm minimisation strategies for, patrons.

4 **26 Temporary licence amendment**

- 5 (1) This section applies if a licensee has applied under section 22 for an
6 amendment of the licence mentioned in section 22 (1) (b) if the
7 commission is satisfied that—
8 (a) the gaming machines need to be moved from the licensed
9 premises for a good reason; and
10 (b) if the amendment is approved—
11 (i) the gaming machines are to be moved to different
12 premises temporarily; and
13 (ii) the gaming machines will not be operated in the different
14 premises.
15 (2) The commission may amend the licence (the *temporary licence*
16 *amendment*) for a stated period.
17 (3) To remove any doubt, the temporary licence amendment does not
18 affect the number of gaming machines licensed to the licensee.

19 **27 Request for return of licence**

- 20 (1) If the commission proposes to amend a licence under this division,
21 the commission must give the licensee written notice of the
22 proposed amendment and ask for the licence to be given to the
23 commission for amendment.
24 (2) The commission need not amend a licence under this division
25 unless—
26 (a) the licensee returns the licence to the commission; or

- 1 (b) the licensee has told the commission about the loss, theft or
2 destruction of the licence, and given any statement required,
3 under section 38.

4 **28 Commencement of amendments**

5 If the commission amends a licence under section 24, section 25 or
6 section 26, the licence as amended must state the date the
7 amendment commences.

8 **Examples**

- 9 1 The amendment commences on the day the machines are modified by an
10 approved technician.
11 2 The amendment commences on the day an installation certificate is issued
12 for the new gaming machine.

13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).

16 **29 Revocation of uncommenced licence amendments**

- 17 (1) This section applies if—
18 (a) the commission has amended a licence under section 24 or
19 section 25; and
20 (b) the amendment does not commence within a time the
21 commission is satisfied is reasonable; and
22 (c) the commission is satisfied that it is appropriate to take action
23 under this section.
24 (2) The commission may give written notice to the licensee—
25 (a) stating that the amendment has not commenced; and
26 (b) stating that the commission intends to revoke the amendment;
27 and
28 (c) telling the licensee that the licensee may make written
29 submissions to the commission about the commission's

1 intention within 3 weeks after the day the notice is given to the
2 licensee.

3 (3) The commission may revoke the amendment if, after considering
4 any submissions made within the 3-week period, the commission is
5 satisfied on reasonable grounds that the licensee has not
6 implemented the changes authorised by the amendment.

7 **Division 2.6 Transfer and surrender of licences**

8 **30 Definitions for div 2.6**

9 In this division:

10 *current licensee*—see section 31 (1).

11 *prospective licensee*—see section 31 (1).

12 **31 Application for transfer of licence**

13 (1) A person (the *prospective licensee*) may apply to the commission
14 for the transfer of a licence from the licensee (the *current licensee*).

15 (2) An application for the transfer of a licence must—

16 (a) be in writing signed by the applicant; and

17 (b) state the full name and address of—

18 (i) for an application by an individual—the applicant; and

19 (ii) for an application by a corporation—each executive
20 officer of the corporation; and

21 (c) must be accompanied by—

22 (i) a signed consent to transfer by the current licensee; and

1 (ii) anything else prescribed under the regulations.

2 *Note 1* If a form is approved under the Control Act, s 53D for an application,
3 the form must be used.

4 *Note 2* A fee may be determined under s 176 for this provision.

5 **32 Transfer of licence**

6 (1) The commission may, on application under section 31, transfer a
7 licence if—

8 (a) the licence is not suspended; and

9 (b) a disciplinary notice has not been given in relation to the
10 licence; and

11 (c) the prospective licensee is a licensee or has a certificate of
12 suitability; and

13 (d) if the prospective licensee is a club—a majority of the voting
14 members of the club who voted in a ballot conducted under the
15 regulations voted for the transfer; and

16 (e) the licence would be issued to the prospective licensee on an
17 initial licence application; and

18 (f) if the current licensee is a club—a majority of the voting
19 members of the club who voted in a ballot conducted under the
20 regulations voted for the transfer; and

21 (g) the current licensee has done everything required to be done
22 under section 33.

23 (2) If the commission transfers a licence under this section, the
24 commission must give the prospective licensee—

25 (a) the licence (as amended to mention the prospective licensee
26 rather than the current licensee); and

27 (b) the machine access register for the gaming machines covered
28 by the licence.

- 1 **33 Current licensees obligations on proposed transfer of**
2 **licence**
- 3 If the commission proposes to transfer a licence, the current licensee
4 must give the commission—
- 5 (a) the licence; and
6 (b) the current licensee’s machine access register; and
7 (c) the accounts kept by the current licensee under section 52
8 (Accounts relating to gaming machines) that relate to amounts
9 taken during the month when the transfer is made; and
10 (d) any other accounts kept in connection with the licence under
11 that section that the commission requires; and
12 (e) any outstanding amount payable by the licensee under this Act.
- 13 *Note* Amounts are payable by licensees under provisions including s 143,
14 s 159 and s 171.
- 15 **34 Surrender of licences**
- 16 (1) This section applies to a licensee if the licensee does not owe the
17 Territory an amount under this Act.
- 18 (2) The licensee may surrender the licence by—
- 19 (a) giving the commission a written notice stating that the licensee
20 surrenders the licence; and
21 (b) if the licensee is a club—giving the commission evidence—
- 22 (i) that a majority of the voting members of the club who
23 voted in a ballot conducted under the regulations voted
24 for the club surrendering the licence; or
25 (ii) that a vote would not be practical; and

1 (c) returning the licence to the commission.

2 **Example for par (b) (ii)**

3 all memberships have expired and the club does not propose to continue operating

4 *Note* An example is part of the Act, is not exhaustive and may extend, but
5 does not limit, the meaning of the provision in which it appears (see
6 Legislation Act, s 126 and s 132).

7 (3) The surrender of the licence takes effect 4 weeks after the day the
8 notice under subsection (2) (a) is given to the commission or, if the
9 notice states a later date of effect, that date.

10 **Division 2.7** **Restriction on gaming machine**
11 **numbers**

12 **35** **Maximum number of gaming machines allowed**

13 (1) The maximum number of gaming machines allowed on all licensed
14 premises in the ACT is 5 200.

15 (2) However, if the Minister declares, in writing, a number of gaming
16 machines to be the maximum number of gaming machines allowed
17 on all licensed premises in the ACT, that number is the maximum
18 number of gaming machines allowed on all licensed premises in the
19 ACT.

20 (3) A declaration is a disallowable instrument.

21 *Note* A disallowable instrument must be notified, and presented to the
22 Legislative Assembly, under the Legislation Act.

23 (4) This section is subject to section 36.

- 1 **36 Minister must take into account commission's**
2 **recommendation**
- 3 (1) The Minister may make a declaration under section 35 only if—
- 4 (a) the commission has made a written recommendation to the
5 Minister about the maximum number of gaming machines that
6 should be allowed on all licensed premises in the ACT; and
- 7 (b) the Minister has taken the recommendations into account.
- 8 (2) The commission may at any time make a recommendation to the
9 Minister under subsection (1) (a) and must make a recommendation
10 if the Minister asks it to do so.
- 11 (3) In making a recommendation to the Minister under this section, the
12 commission must have regard to the following:
- 13 (a) the use on licensed premises of existing gaming machines;
- 14 (b) the public demand for gambling in the community;
- 15 (c) the incidence of problem gambling in the community and the
16 availability of support services for problem gamblers.
- 17 (4) Subsection (3) does not limit the matters the commission may have
18 regard to.

19 **Division 2.8 Gaming machine licences**

20 **37 Register of licences**

- 21 (1) The commission must keep a register of licences.
- 22 (2) The commission must enter in the register details of the following:
- 23 (a) the issue, amendment or transfer of a licence;
- 24 (b) the suspension or cancellation of a licence; and
- 25 (c) any other details prescribed under the regulations.

1 **38 Giving copy of licence**

2 (1) This section applies if a licensee tells the commission, in writing,
3 about the loss, theft or destruction of the licence.

4 (2) The commission may, by written notice given to the licensee,
5 require the licensee to give the commission, within a stated period
6 and in a stated form, a statement confirming, and explaining the
7 circumstances of, the loss, theft or destruction.

8 (3) If the commission is satisfied that the licence has been lost, stolen or
9 destroyed, the commission may give a replacement licence to the
10 licensee.

11 *Note* A fee may be determined under s 176 for this provision.

- 1 **Part 3** **Conditions on licences**
- 2 **Division 3.1** **Compliance with licence conditions**
- 3 **39** **Failure to comply with conditions of licence**
- 4 (1) A licensee commits an offence if—
- 5 (a) the licensee’s licence is subject to a condition; and
- 6 (b) the licensee fails to comply with a requirement of the
- 7 condition.
- 8 Maximum penalty: 100 penalty units.
- 9 (2) An offence against this section is a strict liability offence.
- 10 *Note* Licence conditions are imposed by the commission and by other parts of
- 11 the Act, as well as by this part.
- 12 **Division 3.2** **General licence conditions**
- 13 **40** **Compliance with directions**
- 14 It is a condition of a licence that the licensee complies with a written
- 15 direction given to the licensee by the commission.
- 16 **41** **Display of licence at licensed premises**
- 17 (1) It is a condition of a licence that the licensee displays the licence, or
- 18 a copy of the licence, at each entrance to each gaming area of the
- 19 licensed premises.
- 20 (2) However, the licensee need not display the schedule to the licence.
- 21 (3) Subsection (1) does not apply if the licensee has given the licence to
- 22 the commission under section 27 (which is about a request for return
- 23 of licences for amendment) or section 33 (1) (which is about
- 24 obligations on licensee on transfer).

- 1 (4) Also, subsection (1) does not apply if—
2 (a) the licence has been lost, stolen or destroyed; and
3 (b) the licensee gave the commission prompt notice under
4 section 38 (Issue of copy of licence) of the loss, theft or
5 destruction; and
6 (c) if the commission required the licensee to give a statement
7 under section 38—the licensee gave the statement as required.

8 **42 Licence schedule to be kept at premises**

9 It is a condition of a licence that the licensee keeps a copy of the
10 schedule to the licence at the licensed premises.

11 **43 Rules and control procedures for operation of gaming
12 machines and peripheral equipment**

13 It is a condition of a licence that the licensee must not operate a
14 gaming machine or peripheral equipment on its licensed premises
15 otherwise than in accordance with licensee's rules and control
16 procedures.

17 **44 Installation in accordance with Act**

18 It is a condition of a licence that the licensee must not allow the
19 installation of a gaming machine on the licensed premises otherwise
20 than in accordance with this Act.

21 **45 Installation certificate**

- 22 (1) This section applies if—
23 (a) a gaming machine is installed on licensed premises; and
24 (b) the commission gives the licensee a notice under section 124
25 for the gaming machine.
26 (2) It is a condition of the licence that the licensee gives the commission
27 written notice of the stated details for the gaming machine as soon

1 as practicable, but not later than 3 days after the later of the
2 following:

- 3 (a) the day the machine is installed; or
4 (b) the day the commission gives the notice.

5 **46 Operation after installation**

- 6 (1) This section applies if a gaming machine is operated on licensed
7 premises.
8 (2) It is a condition of the licence that the licensee not allow the gaming
9 machine to be operated on the licensed premises unless the licensee
10 has given the commission a notice under section 45 (2) for the
11 machine.
12 (3) However, subsection (2) does not prevent the operation of the
13 gaming machine for maintenance.

14 **47 Operation subject to correct percentage payout**

- 15 (1) It is a condition of a licence that the licensee not operate a gaming
16 machine on the licensed premises if the percentage payout on a
17 gaming machine on the licensed premises is not the percentage
18 payout under the licence for the machine.
19 (2) Subsection (1) does not prevent the operation of the gaming
20 machine to correct the percentage payout.

21 **48 Percentage payout of gaming machines to be displayed**

22 It is a condition of a licence that each licensed gaming machine has
23 the percentage payout under the licence for the gaming machine
24 clearly displayed on the machine in a position approved by the
25 commission under section 126.

1 **49** **Maximum stake amount**

2 It is a condition of the licence that the licensee not operate a gaming
3 machine with a stake amount that is more than the amount
4 prescribed under the regulations.

5 **50** **Licensee to comply with relevant codes of practice**

6 It is a condition of a licence that the licensee comply with the
7 relevant code of practice (if any) prescribed under the Control Act.

8 **51** **Licensee to use gaming machines**

9 (1) It is a condition of a licence that the licensee use the licensed
10 gaming machines.

11 (2) However, a licensee does not contravene the condition under
12 subsection (1) if—

13 (a) the period for which the gaming machine is not used is
14 1 month or less; or

15 (b) the gaming machine is not used because it is broken or
16 damaged and the licensee has taken, or is taking, all reasonable
17 steps to make the machine operational again; or

18 (c) the licensee has the commission's written approval for the
19 gaming machine not to be used.

20 (3) On written application by the licensee, the commission may approve
21 the non-use of a gaming machine for a stated period if satisfied that
22 the gaming machine is not being used for a good reason.

23 **52** **Accounts relating to gaming machines**

24 It is a condition of a licence that the licensee must—

25 (a) keep full and separate accounts of all amounts taken from each
26 gaming machine on the licensed premises; and

- 1 (b) keep the accounts in a way that allows them to be conveniently
2 and properly audited; and
3 (c) correctly balance the accounts at the end of each month.

4 **Division 3.3 Club licence conditions**

5 **53 Conditions about inequitable benefits**

- 6 (1) It is a condition of a licence for a club that nobody, whether or not a
7 member of a club, directly or indirectly derives a benefit from the
8 club other than a benefit that—
9 (a) is available equally to all voting members of the club; or
10 (b) arises under an agreement in which the parties are dealing with
11 each other at arm's length; or
12 (c) is given to a member under a resolution passed at a general
13 meeting of voting members.
- 14 (2) It is a condition of a licence for a club that nobody, whether or not a
15 member of a club, directly or indirectly derives a benefit that is not
16 available equally to all voting members of the club from—
17 (a) the club having applied for a licence; or
18 (b) a licence being issued to the club; or
19 (c) any added value that may accrue to the premises of the club
20 because of a licence being issued to the club.
- 21 (3) For this section, a person is not taken to be not dealing with the club
22 at arm's length only because—
23 (a) the person and the club are corporations that are related under
24 the Corporations Act, section 50; or
25 (b) the person, or an individual representing the person in dealings
26 with the club, is an influential person for the club.
- 27 (4) This section does not prevent a person taking a benefit if—

- 1 (a) the person is entitled (whether or not under the rules of the
2 club) to the benefit in the course of acting on behalf of the
3 club; and
4 (b) the benefit consists only of—
5 (i) reasonable food or refreshment; or
6 (ii) out-of-pocket expenses reasonably incurred and
7 authorised by a resolution of the club's management
8 committee or board.

9 **54 Annual report of clubs**

10 It is a condition of a licence for a club that the club's annual report
11 for a financial year of the club include information about the
12 following for the financial year:

- 13 (a) any contractual arrangement or consultancy entered into during
14 the year—
15 (i) with an influential person; or
16 (ii) for more than the amount prescribed under the
17 regulations;
18 (b) any salary of the amount prescribed under the regulations or a
19 higher amount.

20 **55 Other conditions of club licences**

21 Each of the following is a condition of a licence for a club:

- 22 (a) the proceeds from the conduct of gaming are used in a way that
23 promotes the objects of the licensee;
24 (b) the licensee follows its objects or purposes honestly and
25 seriously;
26 (c) payments made under the licensee's objects are in the best
27 interests of the licensee's members;

1 (d) payments made for things bought by the licensee are
2 reasonable;

3 (e) salaries, wages, allowances or benefits paid or payable by the
4 licensee to the licensee's executive officers and employees are
5 reasonable;

6 (f) payments for services provided to the licensee are reasonable
7 and necessary, particularly in relation to the scale of the
8 licensee's licensed business;

9 **Example**

10 The licensee has 4 gaming machines and pays \$150 000 a year for gaming
11 machine advice. This payment is not reasonable because the payment is
12 disproportionately large given the revenues from the 4 machines in relation
13 to which the advice is being given.

14 *Note* An example is part of the Act, is not exhaustive and may extend,
15 but does not limit, the meaning of the provision in which it
16 appears (see Legislation Act, s 126 and s 132).

17 (g) the acquisition or disposal of land (for example, by lease or
18 sublease) is put to the members of the club for approval and
19 approved by a majority of the voting members who vote in a
20 ballot conducted under the regulations;

21 (h) guests must be signed in by a club member and accompanied
22 by the member who signed them in;

23 (i) only members and signed-in guests can play gaming machines
24 in the club;

25 (j) each requirement for the issue of a gaming machine licence is
26 continually met by the licensee;

27 *Note* For the requirements of the issue of a gaming machine licence—
28 see s 12.

- 1 (k) the licensee continues not to do anything that would, if the
2 licensee were applying for a licence, cause the licensee to be
3 refused a licence.

4 *Note* For the grounds for refusing a gaming machine licence—see s 14.

1 **Part 4 Disciplinary action**

2 **56 Definitions for pt 4**

3 In this part:

4 *disciplinary action*—see section 58.

5 *disciplinary notice*—see section 61.

6 *ground for disciplinary action* against a licensee—see section 57.

7 *licence*—

8 (a) in relation to a person who is authorised to conduct a linked
9 jackpot arrangement under section 134, means the
10 authorisation;

11 (b) in relation to a permit-holder under part 8 (Linked jackpot
12 arrangements), means a multi-user permit.

13 *licensee* includes a permit-holder under part 8.

14 **57 Grounds for disciplinary action**

15 (1) Each of the following is a *ground for disciplinary action* against a
16 licensee:

17 (a) the licensee gave information to the commission that was false,
18 incomplete or otherwise misleading;

19 (b) the licensee, or an agent or employee of the licensee, has
20 contravened this Act;

21 (c) the licensee is not an eligible person for a licence;

22 (d) for a corporation—an influential person is not an eligible
23 person;

24 (e) for a licence issued to a club—

-
- 1 (i) the club has been or is about to be wound up; or
2 (ii) the club has not operated for 3 months or, if the
3 commission approves a longer period, that longer period;
4 or
5 (iii) the club has ceased to be an eligible club;
6 (f) for a licence issued in relation to premises to which an on
7 licence applies—the premises are not being used by people
8 mainly for drinking alcohol;
9 (g) the licensee has been given a reprimand that included a
10 direction, and has not complied with the direction.
11 (2) The commission may, in writing, approve a period longer than
12 3 months for subsection (1) (e) (ii) if satisfied that—
13 (a) there is a good reason why the club is not operating; and
14 (b) the club will operate again after the end of the longer period.

15 **58 Disciplinary action**

- 16 (1) Each of the following is a *disciplinary action* when taken against a
17 person:
18 (a) reprimanding the person;
19 (b) imposing conditions on, or amending the conditions of, the
20 person's licence;
21 (c) ordering the person to pay to the Territory a financial penalty
22 of not more than \$100 000;
23 (d) suspending the person's licence for a stated period or until a
24 stated thing happens;
25 (e) cancelling the person's licence.
26 (2) A reprimand may include a direction by the commission that the
27 licensee, within a stated time—

Part 4 Disciplinary action

Section 59

- 1 (a) cease contravening this Act; or
2 (b) rectify something that contributes to the ground for disciplinary
3 action.
4 (3) A financial penalty imposed under this section may be recovered as
5 a debt payable to the Territory.

6 **59 Criteria for disciplinary action**

- 7 (1) In deciding what disciplinary action to take under section 58, the
8 commission must consider the following:
9 (a) whether disciplinary action has been taken against the licensee
10 before;
11 (b) whether the disciplinary ground on which the disciplinary
12 action is to be taken endangered the public or the public
13 interest;
14 (c) the seriousness of the disciplinary ground;
15 (d) the likelihood of further disciplinary action needing to be
16 taken.
17 (2) The commission may also consider any other relevant matter.

18 **60 When disciplinary notice may be given**

19 If the commission is satisfied that a ground for disciplinary action
20 exists, or may exist, in relation to a licensee, the commission may
21 give the licensee a disciplinary notice.

22 *Note* The commission need not give a disciplinary notice if the grounds for
23 disciplinary action are the contravention of a direction in a reprimand
24 (see s 62).

1 **61 Disciplinary notices**

2 A notice (a *disciplinary notice*) given to the licensee must—

- 3 (a) state the ground for disciplinary action that caused the notice to
4 be given; and
- 5 (b) tell the licensee that the licensee may, within 3 weeks after the
6 day the licensee is given the notice, give a written response to
7 the commission about the notice.

8 **62 Commission may take disciplinary action against
9 licensee**

- 10 (1) This section applies if the commission is satisfied that a licensee has
11 contravened a direction in a reprimand.
- 12 (2) This section also applies if—
- 13 (a) a licensee has been given a disciplinary notice; and
- 14 (b) after considering any responses given within the 3-week period
15 in relation to the notice under section 61, the commission is
16 satisfied that a ground for disciplinary action exists in relation
17 to a licensee.
- 18 (3) The commission may take disciplinary action against the licensee.
- 19 (4) To remove any doubt, the disciplinary action may consist of 2 or
20 more of the actions mentioned in section 58.
- 21 (5) Disciplinary action takes effect when the licensee receives written
22 notice of the action, or on a later stated date.

23 **63 Suspension of licences because of suspension of general
24 and on licences**

25 If a general licence or on licence relating to premises to which a
26 gaming machine licence applies is suspended under the *Liquor Act*
27 1975, the gaming machine licence is suspended by force of this

1 section for the period of suspension of the general licence or on
2 licence.

3 **64 Cancellation of licences because of cancellation etc of**
4 **general and on licences**

5 (1) If a general licence or on licence relating to premises to which a
6 gaming machine licence applies is not renewed under the *Liquor Act*
7 *1975*, the gaming machine licence is cancelled by force of this
8 section.

9 (2) If a general licence or on licence relating to premises to which a
10 gaming machine licence applies is cancelled under the *Liquor Act*
11 *1975*, the gaming machine licence is cancelled by force of this
12 section.

13 (3) However, a licence cancelled under this section is taken to be in
14 force again if the decision to cancel the general or on licence
15 because of which the gaming machine licence was cancelled is
16 reversed on appeal.

17 **65 Return of licence on cancellation**

18 (1) This section applies if—

- 19 (a) the commission cancels a person's licence under this part; and
20 (b) the person is given notice of the cancellation.

21 (2) This section also applies if—

- 22 (a) a person's licence is cancelled under section 64 (1); or
23 (b) the person's licence is cancelled under section 64 (2) and the
24 person has notice of the cancellation of the person's general or
25 on licence.

- 1 (3) The person must return the licence to the commission as soon as
2 practicable, but in any case not later than 1 week after the day the
3 cancellation under this part takes affect.
4 Maximum penalty: 50 penalty units.
- 5 (4) An offence against this section is a strict liability offence.

1 **Part 5 Centralised monitoring system**

2 **66 Meaning of *centralised monitoring system***

3 (1) In this Act:

4 *centralised monitoring system* (or *CMS*) means a system approved
5 in writing by the commission that—

- 6 (a) monitors the operation and performance of approved gaming
7 machines; and
8 (b) facilitates the working out and checking for accuracy of tax
9 liability, and the collection of tax, under this Act; and
10 (c) can perform other related functions.

11 (2) An approval is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the Legislation Act.

13 **67 Regulations about CMS**

14 (1) The regulations may provide for the establishment and operation of
15 a CMS.

16 (2) In particular, the regulations may fix a date, or allow the
17 commission to fix a date, by which stated machines must be
18 connected to the CMS.

1 **Part 6** **Approval of gaming machines,**
2 **peripherals, suppliers,**
3 **technicians and attendants**

4 **Division 6.1** **Approval of gaming machines and**
5 **peripheral equipment**

6 **68** **Meaning of *peripheral equipment***

7 In this Act:

8 *peripheral equipment*, for a gaming machine, means equipment, or
9 a device, that is incidental to the basic operation of the gaming
10 machine.

11 **Examples**

- 12 1 note acceptors
13 2 links
14 3 card readers
15 4 ticket readers

16 *Note* An example is part of the Act, is not exhaustive and may extend, but
17 does not limit, the meaning of the provision in which it appears (see
18 Legislation Act, s 126 and s 132).

19 **69** **Approval of gaming machines and peripheral equipment**

- 20 (1) The commission may, in writing, approve—
21 (a) a gaming machine; and
22 (b) any peripheral equipment for the gaming machine.
23 (2) However, the commission must not approve something under
24 subsection (1) unless the commission has considered the results of a
25 technical evaluation of the gaming machine and any peripheral
26 equipment by an approved entity.

1 (3) The approval of a gaming machine is a notifiable instrument.

2 *Note* A notifiable instrument must be notified under the Legislation Act.

3 (4) In this section:

4 *approved entity* means an entity approved (however described)
5 under a law of a local jurisdiction about gaming machines to
6 undertake technical evaluations for the law.

7 **70 Cancellation or suspension of gaming machine and**
8 **peripheral equipment approval**

9 (1) The commission may, in writing, cancel or suspend the approval of
10 a gaming machine or peripheral equipment if—

11 (a) the machine no longer operates as designed; or

12 (b) the machine no longer operates as intended.

13 (2) To remove any doubt, if the approval of a machine is cancelled or
14 suspended under this section, it applies to all machines of that kind,
15 whether or not a particular machine is operating as designed or
16 intended.

17 **Example**

18 A King of the Thames gaming machine stops operating in accordance with its
19 design. The commission suspends the approval of King of the Thames gaming
20 machines, even though not all King of the Thames gaming machines have stopped
21 operating in accordance with their design.

22 *Note* An example is part of the Act, is not exhaustive and may extend, but
23 does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

25 (3) A cancellation or suspension under subsection (1) is a notifiable
26 instrument.

27 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **71 Machine access register**

2 (1) A licensee must keep a register (the *machine access register*) for the
3 licensed gaming machines on the licensed premises.

4 (2) If a gaming machine on the licensed premises is not working for a
5 reason peculiar to the machine, the machine access register must
6 record when and why the machine is not working.

7 **Examples**

8 1 technical problems peculiar to the machine, not a problem that affects all
9 machines, eg a blackout

10 2 maintenance

11 3 door open for coin filling or removal

12 4 inspection by authorised officer

13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).

16 (3) If an approved supplier, approved technician or approved attendant
17 opens or maintains a gaming machine on the licensed premises in
18 any way, whether or not by opening the machine, the person must
19 enter the following details in the machine access register:

20 (a) information that clearly identifies the machine;

21 (b) the date when the machine was opened, repaired, adjusted or
22 altered;

23 (c) if the machine was repaired or adjusted—a description of the
24 repair or adjustment;

25 (d) the time when, and reason why, the machine was not working;

26 (e) the signature and number of the certificate of approval of the
27 person making the entry;

28 (f) any other information required under the regulations.

29 (4) A person commits an offence if—

- 1 (a) the person enters anything in the machine access register; and
2 (b) the person is not an approved supplier, approved technician,
3 approved attendant or authorised person.

4 Maximum penalty: 10 penalty units.

- 5 (5) An offence against subsection (4) is a strict liability offence.

6 **Division 6.2 Approved suppliers**

7 **72 Application and approval as supplier**

- 8 (1) A person may apply in writing for approval as a supplier.

9 *Note 1* If a form is approved under the Control Act, s 53D for an application,
10 the form must be used.

11 *Note 2* A fee may be determined under s 176 for this provision.

- 12 (2) The commission may approve the person as a supplier if satisfied
13 that—

14 (a) the person sells, installs or maintains gaming machines,
15 peripheral equipment for gaming machines or systems
16 (including a CMS) designed for use with gaming machines;
17 and

18 (b) for an individual—the individual is an eligible person; and

19 (c) for a corporation—each influential person for the corporation
20 is an eligible person; and

21 (d) the person satisfies any other requirement prescribed under the
22 regulations.

- 23 (3) If the commission approves a person as a supplier, the commission
24 must give the person a certificate stating that the person is an
25 approved supplier.

-
- 1 **73 Giving copy of certificate about approved supplier**
- 2 (1) This section applies if an approved supplier tells the commission, in
- 3 writing, about the loss, theft or destruction of a certificate given to
- 4 the person under section 72 (3).
- 5 (2) The commission may, by written notice given to the supplier,
- 6 require the supplier to give the commission, within a stated period
- 7 and in a stated form, a statement confirming, and explaining the
- 8 circumstances of, the loss, theft or destruction.
- 9 (3) If the commission is satisfied that the certificate has been lost, stolen
- 10 or destroyed, the commission may give a replacement to supplier.
- 11 *Note* A fee may be determined under s 176 for this provision.

12 **Division 6.3 Approved technicians**

- 13 **74 Application for approval as technician**
- 14 (1) An individual may apply in writing for approval as a technician for
- 15 1 or more suppliers.
- 16 *Note 1* If a form is approved under the Control Act, s 53D for an application,
- 17 the form must be used.
- 18 *Note 2* A fee may be determined under s 176 for this provision.
- 19 (2) The application must be accompanied by—
- 20 (a) a statement by each approved supplier for which the applicant
- 21 is applying for approval that—
- 22 (i) the supplier is satisfied that the applicant is competent to
- 23 exercise the functions of an approved technician; and
- 24 (ii) the supplier employs, or has offered to employ, the
- 25 applicant as a technician; and
- 26 (b) if the applicant is an approved supplier and is applying for
- 27 approval to be a technician for his or her own business—a
- 28 statement to that effect; and

- 1 (c) an undertaking by the applicant to—
2 (i) ask the police to check the applicant's criminal record
3 using the applicant's fingerprints; and
4 (ii) authorise the police to report the results of the check to
5 the commission; and
6 (d) 4 recent passport-size photographs of the applicant.

7 **75 Approval of technicians**

- 8 (1) The commission may, on application under section 74, approve the
9 applicant as a technician for 1 or more suppliers if satisfied that—
10 (a) the applicant is qualified to exercise the functions of an
11 approved technician; and
12 (b) either—
13 (i) the applicant is employed, or will be employed, by each
14 supplier; or
15 (ii) the applicant is an approved supplier; or
16 (iii) the applicant is employed, or will be employed, by each
17 supplier and is an approved supplier.
18 (2) An approval is for 2 years.
19 (3) If a short-term approval is in force in relation to the applicant, the
20 approval under this section starts when the short-term approval
21 under section 76 began.

22 **Example**

23 Jo was given a short-term approval as a technician on 1 January 2005 before the
24 results of her police check came through. Her results were satisfactory and she
25 was approved as a technician on 25 February 2005. Her approval ends on 1
26 January 2007.

- 27 (4) A person is *qualified* to exercise the functions of an approved
28 technician for a supplier if the person—

- 1 (a) is an individual; and
2 (b) is competent to maintain gaming machines supplied by the
3 supplier; and
4 (c) is an eligible person; and
5 (d) satisfies any requirement prescribed under the regulations.
6 (5) To remove any doubt, an approved supplier may be approved as a
7 technician under this section for themselves as supplier, another
8 supplier or both.

9 **76 Short-term approval of technicians**

- 10 (1) This section applies to a person who has applied for approval as a
11 technician if—
12 (a) the commission has not received the results of the police check
13 of the person's criminal record; but
14 (b) the commission would approve the person if the results of the
15 police check did not show that the person was not an eligible
16 person.
17 (2) The commission may approve the applicant as a technician.
18 (3) An approval under this section (a *short-term approval*) is for
19 6 months, and cannot be renewed.

20 **77 Ending short-term approvals**

- 21 (1) This section applies to a person if—
22 (a) the person has a short-term approval as a technician; and
23 (b) the commission receives the results of the police check of the
24 person's criminal record; and
25 (c) after considering the results of the police check, the
26 commission is satisfied that the person is not an eligible
27 person.
-

- 1 (2) The commission must, by written notice given to the technician—
2 (a) refuse the person's application for approval as a technician;
3 and
4 (b) cancel the person's short-term approval as a technician.

5 **78 Transfer etc of technician's approval**

- 6 (1) On written application by an approved technician, the commission
7 may—
8 (a) approve the technician for another supplier (the *new supplier*);
9 or
10 (b) transfer the approval of the technician from 1 supplier to
11 another (the *new supplier*).

12 *Note 1* If a form is approved under the Control Act, s 53D for an application,
13 the form must be used.

14 *Note 2* A fee may be determined under s 176 for this provision.

- 15 (2) The application must be accompanied by a written statement by the
16 new supplier stating that the supplier employs, or has offered to
17 employ, the applicant as a technician.

18 **79 Cancellation etc of technician's approval**

- 19 (1) This section applies if—
20 (a) the commission stops being satisfied that an approved
21 technician is qualified to exercise the functions of an approved
22 technician for each supplier for whom the technician is
23 approved; or
24 (b) the approved technician is not an approved supplier and is not
25 employed by an approved supplier; or
26 (c) the commission is satisfied that the technician has contravened
27 this Act.

- 1 (2) The commission may, by written notice given to the approved
2 technician—
- 3 (a) cancel the technician’s approval; or
4 (b) suspend the technician’s approval; or
5 (c) reprimand the technician.
- 6 (3) In considering whether to take action under this section, the
7 commission must consider the following:
- 8 (a) whether action has been taken against the approved technician
9 under this section before;
- 10 (b) the seriousness of any contravention of this Act;
- 11 (c) the likelihood of further action needing to be taken against the
12 technician;
- 13 (d) the public benefit of technicians being regulated under this Act.
- 14 (4) The commission may also consider any other relevant matter.
- 15 (5) In this section:
- 16 *approved supplier*—a person is not an *approved supplier* if the
17 person’s approval as a supplier is suspended.
- 18 *qualified*, to exercise the functions of an approved technician—see
19 section 75 (4).

20 **80 Certificates and identity cards for approved technicians**

- 21 (1) This section applies if the commission approves a technician under
22 section 75 (Approval of technicians) or section 76 (Short-term
23 approval of technicians).
- 24 (2) The commission must give—
- 25 (a) a certificate (the technician’s *approval certificate*) to each
26 approved supplier for the technician containing details of the
27 approval; and

- 1 (b) an identity card to the approved technician containing details
2 of the approval.

3 **81 Giving copy of certificate about approved technician or**
4 **identity card**

- 5 (1) This section applies if an approved supplier or approved technician
6 tells the commission, in writing, about the loss, theft or destruction
7 of a certificate or identity card given to the person under section 80.
- 8 (2) The commission may, by written notice given to the person, require
9 the person to give the commission, within a stated period and in a
10 stated form, a statement confirming, and explaining the
11 circumstances of, the loss, theft or destruction.
- 12 (3) If the commission is satisfied that the certificate or identity card has
13 been lost, stolen or destroyed, the commission may give a
14 replacement to the person.

15 *Note* A fee may be determined under s 176 for this provision.

16 **82 Notice by supplier if technician no longer employed**

- 17 (1) This section applies if—
18 (a) a supplier is the supplier for an approved technician; and
19 (b) the supplier stops employing the technician.
- 20 (2) The supplier must tell the commission in writing that the supplier no
21 longer employs the technician within 1 week after the day the
22 supplier stops employing the technician.
- 23 Maximum penalty: 5 penalty units.
- 24 (3) An offence against this section is a strict liability offence.

-
- 1 **83** **Return of approval certificates and identity cards for**
2 **approved technicians**
- 3 (1) This section applies if—
- 4 (a) a technician’s approval expires or is cancelled or suspended; or
- 5 (b) a technician stops working for an approved supplier.
- 6 (2) The supplier must return the technician’s approval certificate to the
7 commission within 1 week after—
- 8 (a) the day the technician’s approval expires; or
- 9 (b) the day the technician is given notice of the cancellation or
10 suspension; or
- 11 (c) the day the approved technician stops working for the supplier.
- 12 Maximum penalty: 5 penalty units.
- 13 (3) The technician must return the technician’s identity card to the
14 commission within 1 week after—
- 15 (a) the day the technician’s approval expires; or
- 16 (b) the day the technician is given notice of the cancellation or
17 suspension; or
- 18 (c) the day the technician no longer works for at least 1 supplier.
- 19 Maximum penalty: 5 penalty units.
- 20 (4) Strict liability applies to an offence against this section.
- 21 **84** **Renewal of technician’s approval**
- 22 (1) An approved technician may apply to the commission for renewal of
23 his or her approval no later than 1 month, and no earlier than 3
24 months, before the approval expires.
- 25 *Note* If a form is approved under the Control Act, s 53D for an application,
26 the form must be used.

- 1 (2) The application must be accompanied by an undertaking by the
2 applicant to—
- 3 (a) ask the police to check the applicant’s criminal record using
4 the applicant’s fingerprints; and
- 5 (b) authorise the police to report the results of the check to the
6 commission.
- 7 (3) On application under this section, the commission must renew the
8 approval if satisfied that it would approve the applicant if the
9 application were an application for initial approval.
- 10 (4) The renewal of the approval begins on the day after the approval
11 being renewed expires.
- 12 (5) An approval that is suspended may be renewed, but the renewed
13 approval is suspended until the end of the suspension.

14 **Division 6.4 Approved attendants**

15 **85 Application for approval as attendant**

- 16 (1) An individual may apply in writing for approval as an attendant for
17 1 or more licensees.

18 *Note 1* If a form is approved under the Control Act, s 53D for an application,
19 the form must be used.

20 *Note 2* A fee may be determined under s 176 for this provision.

- 21 (2) The application must be accompanied by—
- 22 (a) a statement from each licensee stating that the licensee
23 employs, or has offered to employ, the applicant as an
24 attendant; and
- 25 (b) an undertaking by the applicant to—
- 26 (i) ask the police to check the applicant’s criminal record
27 using the applicant’s fingerprints; and

1 (ii) authorise the police to report the results of the check to
2 the commission; and

3 (c) 4 recent passport-size photographs of the applicant.

4 **86 Approval of attendants**

5 (1) The commission may, on application under section 85, approve the
6 applicant as an attendant for 1 or more licensees if satisfied that—

7 (a) the applicant is an eligible person; and

8 (b) the applicant is employed, or will be employed, by each
9 licensee.

10 (2) An approval is for 2 years.

11 (3) If a short-term approval is in force in relation to the applicant, the
12 approval under this section starts when the short-term approval
13 under section 87 began.

14 **Example**

15 Joe was given a short-term approval as an attendant on 1 January 2005 before the
16 results of his police check came through. His results were satisfactory and he was
17 approved as an attendant on 25 February 2005. His approval ends on 1 January
18 2007.

19 **87 Short-term approval of attendants**

20 (1) This section applies to a person who has applied for approval as an
21 attendant if—

22 (a) the commission has not received the results of the police check
23 of the person's criminal history; but

24 (b) the commission would approve the person if the results of the
25 police check did not show that the person was not an eligible
26 person.

27 (2) The commission may approve the applicant as an attendant.

- 1 (3) An approval under this section (a *short-term approval*) is for
2 6 months, and cannot be renewed.

3 **88 Ending short-term approvals**

- 4 (1) This section applies to a person if—
5 (a) the person has a short-term approval as an attendant; and
6 (b) the commission receives the results of the police check of the
7 person's criminal history; and
8 (c) after considering the results of the police check, the
9 commission is satisfied that the person is not an eligible
10 person.
11 (2) The commission must, by written notice given to the person—
12 (a) refuse the person's application for approval as an attendant;
13 and
14 (b) cancel the person's short-term approval as an attendant.

15 **89 Transfer etc of attendant's approval**

- 16 (1) On written application by an approved attendant, the commission
17 may—
18 (a) approve the attendant for another licensee (the *new licensee*);
19 or
20 (b) transfer the approval of the attendant from 1 licensee to another
21 (the *new licensee*).

22 *Note 1* If a form is approved under the Control Act, s 53D for an application,
23 the form must be used.

24 *Note 2* A fee may be determined under s 176 for this provision.

- 25 (2) The application must be accompanied by a written statement by the
26 new licensee stating that the licensee employs, or has offered to
27 employ, the applicant as an attendant.

1 **90** **Suspension of attendant's approval for short-term**
2 **unemployment**

3 On written application by an approved attendant, the commission
4 may suspend the attendant's approval for up to 3 months from the
5 day the application is given to the commission if the attendant is not
6 employed by a licensee.

7 **91** **Cancellation etc of attendant's approval**

- 8 (1) This section applies if—
- 9 (a) the commission stops being satisfied that an approved
10 attendant is an eligible person; or
- 11 (b) the attendant is not employed by a licensee and his or her
12 approval is not suspended under section 90; or
- 13 (c) the commission is satisfied that the attendant has contravened
14 this Act.
- 15 (2) The commission may, by written notice to the approved attendant—
- 16 (a) cancel the attendant's approval; or
- 17 (b) suspend the attendant's approval; or
- 18 (c) reprimand the attendant.
- 19 (3) In considering whether to take action under this section, the
20 commission must consider the following:
- 21 (a) whether action has been taken against the approved attendant
22 under this section before;
- 23 (b) the seriousness of any contravention of this Act;
- 24 (c) the likelihood of further action needing to be taken against the
25 attendant;
- 26 (d) the public benefit of attendants being regulated under this Act.
- 27 (4) The commission may also consider any other relevant matter.

1 **92 Certificates for approved attendants**

2 (1) This section applies if the commission approves an attendant under
3 section 86 (Approval of attendants) or section 87 (Short-term
4 approval of attendants).

5 (2) The commission must give—

6 (a) a certificate (the attendant's *approval certificate*) containing
7 details of the approval to the attendant; and

8 (b) a copy of the certificate to each licensee for the attendant.

9 **93 Giving copy of certificate about approved attendant**

10 (1) This section applies if an approved attendant or licensee tells the
11 commission, in writing, about the loss, theft or destruction of an
12 approval certificate given to the person under section 92.

13 (2) The commission may, by written notice given to the person, require
14 the person to give the commission, within a stated period and in a
15 stated form, a statement confirming, and explaining the
16 circumstances of, the loss, theft or destruction.

17 (3) If the commission is satisfied that the certificate has been lost, stolen
18 or destroyed, the commission may give a replacement to the person.

19 *Note* A fee may be determined under s 176 for this provision.

20 **94 Notice by licensee if attendant no longer employed**

21 (1) This section applies if—

22 (a) a licensee is the licensee for an approved attendant; and

23 (b) the licensee stops employing the attendant.

24 (2) The licensee must tell the commission in writing that the licensee no
25 longer employs the attendant within 1 week after the day the
26 licensee stops employing the attendant.

-
- 1 **95** **Return of approval certificates for approved attendants**
- 2 (1) This section applies if—
- 3 (a) an attendant’s approval expires or is cancelled or suspended; or
- 4 (b) the attendant no longer works for at least 1 licensee.
- 5 (2) The attendant must return the attendant’s approval certificate to the
- 6 commission within 1 week after—
- 7 (a) the day the attendant’s approval expires; or
- 8 (b) the day the attendant is given notice of the cancellation or
- 9 suspension; or
- 10 (c) the day the attendant no longer works for at least 1 licensee.
- 11 Maximum penalty: 5 penalty units.
- 12 (3) An offence against this section is a strict liability offence.
- 13 **96** **Renewal of attendant’s approval**
- 14 (1) An approved attendant may apply to the commission for renewal of
- 15 his or her approval no later than 1 month, and no earlier than 3
- 16 months, before the approval expires.
- 17 *Note* If a form is approved under the Control Act, s 53D for an application,
- 18 the form must be used.
- 19 (2) The application must be accompanied by an undertaking by the
- 20 applicant to—
- 21 (a) ask the police to check the applicant’s criminal record using
- 22 the applicant’s fingerprints; and
- 23 (b) authorise the police to report the results of the check to the
- 24 commission.
- 25 (3) On application under this section, the commission must renew the
- 26 approval if satisfied that it would approve the applicant if the
- 27 application were an application for initial approval.

- 1 (4) The renewal of the approval begins on the day after the approval
2 being renewed ends.
- 3 (5) An approval that is suspended may be renewed, but the renewed
4 approval is suspended until the end of the suspension.

5 **Division 6.5 Gaming machine dealings**

6 **97 Control procedures**

- 7 (1) A person's control procedures for gaming machines and peripheral
8 equipment must include operational details (including who is
9 responsible) for each of the following:
- 10 (a) accounting and record keeping in relation to the gaming
11 machines and peripheral equipment;
- 12 (b) access to and handling of cash in relation to the gaming
13 machines;
- 14 (c) payment of winnings;
- 15 (d) access control to the gaming machines and peripheral
16 equipment;
- 17 (e) security of the gaming machines and peripheral equipment;
- 18 (f) security of cash, records and keys in relation to the gaming
19 machines;
- 20 (g) job descriptions (including responsibilities) of people operating
21 and doing accounting and record keeping in relation to the
22 gaming machines and peripheral equipment;
- 23 (h) any marketing and promotion of the gaming machines.
- 24 (2) A person may change the person's control procedures by written
25 notice given to the commission.
- 26 (3) The regulations may make provision in relation to control
27 procedures.

1 **98 Acquisition of gaming machines—general**

2 A person commits an offence if the person—

- 3 (a) intentionally acquires a gaming machine; and
4 (b) does not have the commission’s approval under section 100 to
5 acquire the machine.

6 Maximum penalty: 100 penalty units, imprisonment for 1 year or
7 both.

8 **99 Application for approval of acquisition of gaming**
9 **machines**

- 10 (1) A person may apply in writing to the commission for approval to
11 acquire a gaming machine.

12 *Note 1* If a form is approved under the Control Act, s 53D for an application,
13 the form must be used.

14 *Note 2* A fee may be determined under s 176 for this provision.

- 15 (2) The application must be accompanied by—
16 (a) the proposed contract for the acquisition (including any
17 proposed order); and
18 (b) details of any proposed arrangements for financing the
19 acquisition.

20 **100 Decision on application for approval to acquire gaming**
21 **machines**

- 22 (1) On application for an approval to acquire a gaming machine, the
23 commission must approve or refuse to approve the acquisition.

- 24 (2) The commission must approve the acquisition of a gaming machine
25 if—

- 26 (a) the applicant is a licensee; and

- 1 (b) the applicant's licence authorises the applicant to operate the
2 machine; and
- 3 (c) the acquisition is to be under a written contract; and
- 4 (d) the gaming machine, and any peripheral equipment to be used
5 with it, is approved under section 69; and
- 6 (e) the person from whom the machine is to be acquired—
7 (i) is an approved supplier; or
8 (ii) is approved under section 113 (Approval of disposal of
9 gaming machines) to dispose of the machine; and
- 10 (f) for any proposed financial arrangement for financing the
11 acquisition—the commission has approved, or proposes to
12 approve, the arrangement under section 101.

13 **101 Application and approval of financial arrangements**

- 14 (1) A licensee commits an offence if—
15 (a) the licensee enters into an arrangement—
16 (i) to finance the acquisition of a gaming machine; or
17 (ii) to encumber a gaming machine; and
18 (b) the commission has not approved the arrangement.
19 Maximum penalty: 100 penalty units.
- 20 (2) A licensee may apply in writing to the commission for approval of
21 an arrangement (a *financial arrangement*)—
22 (a) to finance the acquisition of a gaming machine; or
23 (b) to encumber a gaming machine.
- 24 *Note* If a form is approved under the Control Act, s 53D for an application,
25 the form must be used.

- 1 (3) The application must be accompanied by a copy of each document
2 related to the proposed financial arrangement.

3 **102 Decision on application for approval of financial**
4 **arrangements**

- 5 (1) On application for an approval of a financial arrangement, the
6 commission must approve or refuse to approve the arrangement.
- 7 (2) The commission must approve a financial arrangement for a gaming
8 machine—
- 9 (a) if—
- 10 (i) the arrangement is to be under 1 or more written
11 contracts; and
- 12 (ii) if the financial arrangement is an arrangement to finance
13 the acquisition of a gaming machine—the commission
14 has approved the acquisition, or proposes to approve it,
15 under section 100 (Decision on application for approval
16 to acquire gaming machines); and
- 17 (b) if the applicant is a club—unless satisfied that the arrangement
18 is not in the best interests of the club’s members.
- 19 (3) It is a condition of an approval under this section that a contract
20 forming part of the approved financial arrangement cannot be
21 amended unless the commission approves the amendment.

22 **103 Possession and operation of gaming machines**

- 23 (1) A person commits an offence if—
- 24 (a) the person possesses or operates a gaming machine; and
- 25 (b) the person is not authorised to possess or operate the gaming
26 machine under this Act; and

1 (c) the person is reckless about whether the person is authorised to
2 possess or operate the gaming machine under this Act.

3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.

5 *Note* Under this Act, a person may be authorised to possess or operate a
6 gaming machine by a licence, an approval to repossess the machine or
7 under s (2).

8 (2) The commission may, in writing, authorise a person to possess or
9 operate a gaming machine on stated conditions if—

10 (a) the person is a licensee's administrator, receiver, manager or
11 liquidator and the licensee is authorised under this Act to
12 possess or operate the gaming machine; or

13 (b) the machine is used only for training purposes; or

14 (c) the machine is being stored; or

15 (d) the machine is being displayed for sale or as a promotion; or

16 (e) the machine is being repaired, tested or evaluated.

17 **104 Playing unlicensed gaming machines**

18 A person commits an offence if—

19 (a) the person plays a gaming machine; and

20 (b) operation of the gaming machine is not authorised under a
21 licence; and

22 (c) the person is reckless about whether the operation of the
23 gaming machine is authorised under a licence.

24 Maximum penalty: 100 penalty units.

- 1 **105 Operation of gaming machines other than in accordance**
2 **with licences**
- 3 (1) A person commits an offence if—
- 4 (a) the person owns, occupies or manages licensed premises; and
- 5 (b) the person fails to take all reasonable steps to stop a gaming
- 6 machine on the premises being used otherwise than in
- 7 accordance with the licence; and
- 8 (c) someone uses the gaming machine otherwise than in
- 9 accordance with the licence.
- 10 Maximum penalty: 100 penalty units.
- 11 (2) A person commits an offence if—
- 12 (a) the person owns, occupies or manages premises other than
- 13 licensed premises; and
- 14 (b) the person fails to take all reasonable steps to stop a gaming
- 15 machine on the premises being used; and
- 16 (c) someone uses the gaming machine.
- 17 Maximum penalty: 100 penalty units.
- 18 (3) An offence against this section is a strict liability offence.

19 **Division 6.6 Repossession of gaming machines**

- 20 **106 Offences by people repossessing gaming machines**
- 21 (1) A person commits an offence if the person repossesses a gaming
- 22 machine otherwise than in accordance with an approval under
- 23 section 108.
- 24 Maximum penalty: 100 penalty units.
- 25 (2) A person commits an offence if—
- 26 (a) the person repossesses a gaming machine; and

1 (b) the person fails to take all reasonable steps to stop the gaming
2 machine being used; and

3 (c) after repossession of the gaming machine but before its
4 disposal, someone else uses the machine.

5 Maximum penalty: 100 penalty units

6 (3) An offence against this section is a strict liability offence.

7 **107 Application for repossession approval**

8 (1) A person may apply in writing to the commission for approval to
9 repossess a gaming machine.

10 *Note 1* If a form is approved under the Control Act, s 53D for an application,
11 the form must be used.

12 *Note 2* A fee may be determined under s 176 for this provision.

13 (2) The application must be accompanied by information identifying—

14 (a) the person from whom the machine is to be repossessed; and

15 (b) the premises where the machine is currently held; and

16 (c) the class, kind and basic stake denomination of the machine.

17 **108 Approval of repossession of gaming machines**

18 (1) On application under section 107, the commission must approve, or
19 refuse to approve, the repossession of a gaming machine.

20 (2) The commission must approve the repossession unless the
21 commission believes on reasonable grounds that the applicant would
22 be likely to contravene a requirement of a condition on the approval.

23 *Note* For conditions, see s 109.

24 (3) If an approval is given to repossess a gaming machine, after the
25 machine is repossessed but before it is disposed of, an authorised
26 officer must—

27 (a) take meter readings from the machine; and

- 1 (b) seal the computer cabinet on the machine; and
2 (c) render the machine inoperable.
3 (4) This section does not entitle a person to repossess a gaming machine
4 if the person is not otherwise entitled to repossess it.

5 **109 Conditions on approval to repossess gaming machine**

- 6 (1) An approval to repossess a gaming machine under section 108 is
7 subject to the following conditions:
8 (a) that the person given the approval take all reasonable steps
9 necessary to prevent the repossessed gaming machine being
10 played before its disposal;
11 (b) that the person given the approval allow an authorised officer
12 to exercise the commission's functions under section 108 (3).
13 (2) The commission may impose any other condition on the approval in
14 relation to the storage of the machine before its disposal that the
15 commission considers appropriate.

16 **110 Contravention of repossession approval conditions**

- 17 (1) A person commits an offence if the person—
18 (a) is approved under section 108 to repossess a gaming machine;
19 and
20 (b) contravenes a requirement of a condition on the approval.
21 Maximum penalty: 50 penalty units.
22 (2) Subsection (1) does not apply if the person took all reasonable steps
23 to avoid a contravention of the requirements of the approval
24 conditions.
25 (3) An offence against this section is a strict liability offence.

1 **Division 6.7 Disposal of gaming machines**

2 **111 Unapproved disposal of gaming machines**

- 3 (1) A person commits an offence if—
4 (a) the person disposes of a gaming machine; and
5 (b) the disposal is not in accordance with an approval under
6 section 113 (Approval of disposal of gaming machines).

7 Maximum penalty: 100 penalty units.

- 8 (2) An offence against this section is a strict liability offence.

9 **112 Application for approval for disposal of gaming machines**

- 10 (1) A person may apply in writing to the commission for approval to
11 dispose of a gaming machine.

12 *Note 1* If a form is approved under the Control Act, s 53D for an application,
13 the form must be used.

14 *Note 2* A fee may be determined under s 176 for this provision.

- 15 (2) The application must be accompanied by information identifying—
16 (a) the person (if any) who is to acquire the machine; and
17 (b) the premises where the machine is currently held; and
18 (c) the class, kind and basic stake denomination of the machine.

19 **113 Approval of disposal of gaming machines**

- 20 (1) On application under section 112, the commission must approve, or
21 refuse to approve, the disposal of a gaming machine.

- 22 (2) The commission must approve the disposal if—

23 (a) the person (if any) who is to acquire the machine is
24 authorised—

25 (i) to operate the machine under a licence; or

- 1 (ii) if the machine is to be sold or operated in a local
2 jurisdiction—under a law of the local jurisdiction; or
3 (iii) to destroy the machine; and
4 (b) for an applicant who has repossessed the machine—the
5 repossession is approved under section 108 (Approval of
6 repossession of gaming machines) and the commission has no
7 reason to believe that the approval has been contravened.
8 (3) However, the commission must not approve the lease or hire of a
9 gaming machine by 1 licensee to another.
10 (4) This section does not entitle a person to dispose of a gaming
11 machine if the person is not otherwise entitled to dispose of the
12 machine.

13 **Division 6.8 Seizure of gaming machines**

14 **114 Seizure of unlawful gaming machines**

- 15 (1) This section applies if an authorised officer believes on reasonable
16 grounds that—
17 (a) a person possesses or operates a gaming machine; and
18 (b) the person is not authorised to possess or operate the gaming
19 machine under this Act.
20 (2) The authorised officer may seize the gaming machine.

21 **115 Receipt for gaming machines seized**

- 22 (1) As soon as practical after the gaming machine is seized, the
23 authorised officer must give a receipt for it to the person from whom
24 it was seized.
25 (2) If, for any reason, it is not practicable to comply with subsection (1),
26 the authorised officer must leave the receipt, secured conspicuously,
27 at the place where the gaming machine was seized.

- 1 (3) A receipt under this section must include the following:
- 2 (a) a description of the gaming machine;
- 3 (b) an explanation of why the gaming machine was seized;
- 4 (c) an explanation of the person's right to apply to a court under
- 5 section 116 for an order disallowing the seizure;
- 6 (d) where the gaming machine is to be taken;
- 7 (e) the authorised officer's name, and how to contact the officer.

8 **116 Application for order disallowing seizure**

- 9 (1) A person claiming to be entitled to a gaming machine seized under
- 10 this division may apply to the Magistrates Court within 10 days after
- 11 the day of the seizure for an order disallowing the seizure.
- 12 (2) The application may be heard only if the applicant has served a copy
- 13 of the application on the commission.
- 14 (3) The commission is entitled to appear as respondent at the hearing of
- 15 the application.

16 **117 Order for return of seized gaming machine**

- 17 (1) This section applies if a person claiming to be entitled to a gaming
- 18 machine seized under this division applies to the Magistrates Court
- 19 under section 116 for an order disallowing the seizure.
- 20 (2) The Magistrates Court must make an order disallowing the seizure if
- 21 satisfied that—
- 22 (a) the applicant would, apart from the seizure, be entitled to the
- 23 return of the seized gaming machine; and
- 24 (b) the gaming machine is not connected with an offence against
- 25 this Act; and
- 26 (c) possession of the gaming machine by the person would not be
- 27 an offence.

- 1 (3) The Magistrates Court may also make an order disallowing the
2 seizure if satisfied there are exceptional circumstances justifying the
3 making of the order.
- 4 (4) If the Magistrates Court makes an order disallowing the seizure, the
5 court may make 1 or more of the following ancillary orders:
- 6 (a) an order directing the commission to return the gaming
7 machine to the applicant or to someone else that appears to be
8 entitled to it;
- 9 (b) if the gaming machine cannot be returned or has depreciated in
10 value because of the seizure—an order directing the Territory
11 to pay reasonable compensation;
- 12 (c) an order about the payment of costs in relation to the
13 application.

14 **118 Adjourment pending hearing of other proceedings**

- 15 (1) This section applies to the hearing of an application under
16 section 116 (Application for order disallowing seizure).
- 17 (2) If it appears to the Magistrates Court that the seized gaming
18 machine is required to be produced in evidence in a pending
19 proceeding in relation to an offence against a Territory law, the
20 court may, on the application of the commission or its own
21 initiative, adjourn the hearing until the end of that proceeding.

22 **119 Forfeiture of seized gaming machines**

- 23 (1) This section applies if an application under section 116 for an order
24 disallowing the seizure of a gaming machine—
- 25 (a) has not been made within 10 days after the day of the seizure;
26 or
- 27 (b) has been made within that period, but the application has been
28 refused or has been withdrawn before a decision on the
29 application had been made.

- 1 (2) The seized gaming machine—
2 (a) is forfeited to the Territory; and
3 (b) may be sold, destroyed or otherwise disposed of as the
4 commission directs.

5 **Division 6.9 Installation and operation of gaming**
6 **machines**

7 **120 Installation to be in accordance with approval of**
8 **commission**

- 9 (1) A licensee commits an offence if—
10 (a) the licensee allows the installation of a gaming machine on the
11 licensed premises; and
12 (b) the gaming machine is installed otherwise than in a gaming
13 area.

14 Maximum penalty: 50 penalty units.

- 15 (2) An offence against this section is a strict liability offence.

16 **121 Offence to install gaming machines**

- 17 (1) A person commits an offence if—
18 (a) the person installs a gaming machine on licensed premises; and
19 (b) the person is not an approved supplier or approved technician.

20 Maximum penalty: 50 penalty units

- 21 (2) An offence against this section is a strict liability offence.

22 **122 Certificate about meter readings**

- 23 (1) A person commits an offence if the person—
24 (a) installs a gaming machine on licensed premises; and

- 1 (b) as soon as practicable, but no later than 3 days, after installing
2 the machine, does not give the licensee a certificate signed by
3 the person stating the meter readings on the machine
4 immediately after installation.

5 Maximum penalty: 20 penalty units.

- 6 (2) An offence against this section is a strict liability offence.

7 **123 Sealing computer cabinet**

- 8 (1) A licensee commits an offence if—

9 (a) the licensee allows the installation of a gaming machine on the
10 licensed premises; and

11 (b) the computer cabinet is not sealed in a way that prevents
12 unauthorised access.

13 Maximum penalty: 50 penalty units.

- 14 (2) An offence against this section is a strict liability offence.

15 **124 Commission may require information**

16 (1) This section applies if a gaming machine is installed on licensed
17 premises.

18 (2) The commission may give the licensee a written notice stating the
19 details the commission needs to be told about the gaming machine.

20 **125 Operation to be subject to correct percentage payout**

- 21 (1) A person commits an offence if—

22 (a) the person is an approved supplier or approved technician; and

23 (b) the person opens a gaming machine and makes an adjustment
24 that will, or is likely to, affect the percentage payout of the
25 machine; and

1 (c) the percentage payout on the gaming machine on the licensed
2 premises is not the percentage payout authorised by the licence
3 for the machine.

4 Maximum penalty: 50 penalty units.

5 (2) An offence against this section is a strict liability offence.

6 **126 Position for percentage payout of gaming machines**
7 **display**

8 (1) The commission may, in writing, approve a position on a kind of
9 gaming machine for display of the percentage payout for the
10 machine.

11 (2) An approval is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the Legislation Act.

13 **127 Maximum stake amount**

14 A person commits an offence if—

15 (a) the person is an approved supplier or approved technician; and

16 (b) the person supplies or installs a gaming machine; and

17 (c) the person intentionally sets the stake amount for the gaming
18 machine higher than the amount prescribed under the
19 regulations.

20 Maximum penalty: 50 penalty units.

1 **Part 7** **Regulation of gaming machines**
2 **generally**

3 **128 Machine access generally**

4 (1) A person commits an offence if the person does any of the following
5 in relation to a licensed gaming machine on licensed premises:

- 6 (a) opens the machine;
7 (b) checks money in the machine;
8 (c) places money into the machine (other than to play the
9 machine);
10 (d) removes money from the machine (other than money won or
11 credited).

12 Maximum penalty: 50 penalty units.

13 (2) Subsection (1) does not apply to the following people:

- 14 (a) an authorised officer;
15 (b) an approved supplier;
16 (c) an approved technician;
17 (d) an approved attendant.

18 (3) A person commits an offence if—

- 19 (a) the person maintains a licensed gaming machine on licensed
20 premises; and
21 (b) the person is not an approved supplier or approved technician.

22 Maximum penalty: 50 penalty units.

23 (4) An offence against this section is a strict liability offence.

1 **129 Interference with gaming machines**

2 (1) A person commits an offence if the person recklessly interferes with
3 the operation of a gaming machine.

4 Maximum penalty: 100 penalty units, imprisonment for 1 year or
5 both.

6 (2) A person commits an offence if the person inserts into a gaming
7 machine anything other than a coin, note or token of the kind stated
8 on the gaming machine.

9 Maximum penalty: 100 penalty units, imprisonment for 1 year or
10 both.

11 (3) A person commits an offence if the person does anything intended
12 to interfere with a gaming machine in a way that causes the machine
13 to yield a reward less than or greater than the percentage payout
14 under the licence in relation to that machine.

15 Maximum penalty: 100 penalty units, imprisonment for 1 year or
16 both.

17 (4) A person commits an offence if the person does anything intended
18 to render a gaming machine, either temporarily or otherwise,
19 incapable of forming a winning combination.

20 Maximum penalty: 100 penalty units, imprisonment for 1 year or
21 both.

22 (5) Subsection (1) does not apply in relation to anything done honestly
23 for the maintenance of a gaming machine by an approved supplier,
24 approved technician or authorised officer.

25 **130 Opening computer cabinets**

26 (1) A person commits an offence if the person—

27 (a) opens the computer cabinet in a gaming machine; and

1 (b) is not an approved supplier, approved technician or authorised
2 officer.

3 Maximum penalty: 50 penalty units.

4 (2) An offence against this section is a strict liability offence.

5 **131 Rendering gaming machines inoperable on licence**
6 **ceasing to be in force**

7 If a licence ceases to be in force, the commission must ensure that
8 each gaming machine on the licensed premises is inoperable—

9 (a) if the licence ceased to be in force under section 64 (1) or
10 because the licence expired—until the machines are removed
11 from the premises; or

12 *Note* Section 64 (1) provides that a person's licence is cancelled if the
13 person's general or on licence is not renewed.

14 (b) if the licence is suspended—during the suspension; or

15 (c) if the licence has been cancelled—until the first of the
16 following happens:

17 (i) the machines are removed from the premises;

18 (ii) the decision of the commission cancelling the licence is
19 set aside on an application for review of the decision; or

20 (d) if the licence ceased to be in force under section 64 (2)—until
21 the first of the following happens:

22 (i) the machines are removed from the premises;

23 (ii) the licence is taken to be in force again under section 64
24 (3).

25 *Note* Section 64 (2) provides that a person's licence is cancelled if the
26 person's general or on licence is cancelled.

1 **132 Removal of gaming machines from premises**

2 (1) This section applies to a person who held a licence that has ceased
3 to be in force, other than a person whose licence is suspended.

4 (2) The person commits an offence if, at the end of the required period,
5 a gaming machine that was licensed is on the premises that were
6 licensed.

7 Maximum penalty: 50 penalty units.

8 (3) In this section:

9 *relevant decision* means the decision of the commission (if any)
10 because of which the licence ceased to be in force.

11 *required period* means—

12 (a) 2 weeks after the day—

13 (i) the licence ceases to be in force; or

14 (ii) if an application for review of the relevant decision may
15 be made but is not made—the time for applying for
16 review of the decision ends; or

17 (iii) if an application is made to review the relevant decision—
18 the application is withdrawn, dismissed or decided; or

19 (b) any further period the commission, whether before or after the
20 end of the period, in writing, approves.

1 Part 8 Linked jackpot arrangements

2 133 Operation of linked jackpot arrangements

3 A person commits an offence if—

- 4 (a) the person operates a linked jackpot arrangement between
5 gaming machines; and
- 6 (b) the arrangement is not authorised under section 134 or by a
7 multi-user permit.

8 Maximum penalty: 50 penalty units, imprisonment for 6 months or
9 both.

10 134 Single-user authorisation for linked jackpot arrangements

- 11 (1) A licensee may apply in writing to the commission for authorisation
12 to operate a linked jackpot arrangement between gaming machines
13 operated under the licence.

14 *Note 1* If a form is approved under the Control Act, s 53D for an application,
15 the form must be used.

16 *Note 2* A fee may be determined under s 176 for this provision.

- 17 (2) The application must include details of each event by reference to
18 which linked jackpots are to be payable under the proposed
19 arrangement.
- 20 (3) The commission must authorise the linked jackpot arrangement if—
- 21 (a) each gaming machine proposed to be linked under the
22 proposed arrangement—
- 23 (i) is operated under a single licence held by the applicant;
24 and
- 25 (ii) is the same class; and

- 1 (iii) offers the same chance of winning linked jackpots as each
2 other machine in the arrangement, if played with the same
3 stakes; and
- 4 (b) the financial and operational aspects of the proposed
5 arrangement are in accordance with the regulations; and
- 6 (c) the commission is satisfied, on reasonable grounds, that the
7 proposed arrangement is satisfactory, having regard to the
8 interests of the people playing the machines in the proposed
9 linked jackpot arrangement.
- 10 (4) It is a condition of an authorisation under this section that—
- 11 (a) each gaming machine in the linked jackpot arrangement
12 displays at all times a sign stating clearly—
- 13 (i) that the machine is part of a linked jackpot arrangement
14 with other machines on the licensed premises; and
- 15 (ii) the percentage of the turnover of the machine set aside for
16 the payment of linked jackpots; and
- 17 (b) linked jackpots be payable for the authorised arrangement by
18 reference to the event or events set out in the application for
19 authorisation for the arrangement.

20 **135 Issue of multi-user permits**

- 21 (1) A person (including a person other than a licensee) may apply in
22 writing to the commission for a permit (a *multi-user permit*) to
23 operate a linked jackpot arrangement between gaming machines
24 operated under 2 or more licences.

25 *Note 1* If a form is approved under the Control Act, s 53D for an application,
26 the form must be used.

27 *Note 2* A fee may be determined under s 176 for this provision.

- 1 (2) The application must include details of the event or events by
2 reference to which linked jackpots are to be payable under the
3 proposed arrangement.
- 4 (3) The commission must issue the multi-user permit if—
- 5 (a) the commission is satisfied, on reasonable grounds, that the
6 applicant is an eligible person; and
- 7 (b) each licensee consents to the arrangement; and
- 8 (c) each gaming machine proposed to be linked under the
9 proposed arrangement—
- 10 (i) is the same class; and
- 11 (ii) offers the same chance of winning linked jackpots as each
12 other machine in the arrangement, if played with the same
13 stakes; and
- 14 (d) the financial and operational aspects of the proposed
15 arrangement is in accordance with the regulations; and
- 16 (e) the commission is satisfied, on reasonable grounds, that the
17 proposed arrangement is satisfactory, having regard to the
18 interests of the people playing the machines in the proposed
19 arrangement.
- 20 (4) A multi-user permit must state—
- 21 (a) the full name and address of the permit-holder; and
- 22 (b) the gaming machines in the linked jackpot arrangement for
23 which the permit is issued, and the licensed premises where
24 they are situated; and
- 25 (c) the conditions to which the permit is subject.

- 1 **136 Conditions on multi-user permits**
- 2 (1) A multi-user permit is subject to the following conditions:
- 3 (a) each gaming machine in a linked jackpot arrangement under
- 4 the permit displays at all times a sign stating clearly—
- 5 (i) that the machine is part of a linked jackpot arrangement
- 6 with machines on different licensed premises; and
- 7 (ii) the percentage of the turnover of the machine set aside for
- 8 the payment of linked jackpots;
- 9 (b) linked jackpots are payable under the arrangement by reference
- 10 to the event or events set out in the application for the permit
- 11 for the arrangement;
- 12 (c) the financial and operational aspects of the arrangement must
- 13 not be amended without the commission's approval under
- 14 section 138;
- 15 (d) if the permit-holder is a corporation—the permit-holder must
- 16 give written notice to the commission stating any of the
- 17 following changes in relation to the corporation within 1 week
- 18 after the day of the change:
- 19 (i) a person becoming an influential person for the
- 20 corporation;
- 21 (ii) a substantial change in the relationship of an influential
- 22 person to the corporation;
- 23 (iii) a person ceasing to be an influential person for the
- 24 corporation.
- 25 (2) The commission may put any other reasonable condition on a multi-
- 26 user permit that the commission considers appropriate, having
- 27 regard to the interests of the people playing the machines in each
- 28 linked jackpot arrangement under the permit.

1 **137 Term of multi-user permits**

2 A multi-user permit is for the period (of up to 3 years) stated in the
3 permit.

4 **138 Amendment of multi-user permits in interest of users**

5 (1) The commission may amend a condition of a multi-user permit on
6 its own initiative if satisfied that it is appropriate to amend the
7 condition, having regard to the interests of the people playing the
8 machines in the linked jackpot arrangement under the permit.

9 (2) The amendment takes effect on the date stated in the notice of the
10 decision on the amendment given to the permit-holder by the
11 commission.

12 **139 Amendment of multi-user permit on request**

13 (1) This section applies if a multi-user permit-holder applies in writing
14 to the commission for an amendment of the permit to—

15 (a) reduce the number of gaming machines in a linked jackpot
16 arrangement, or terminate a linked jackpot arrangement; or

17 (b) increase the number of gaming machines in a linked jackpot
18 arrangement under the permit; or

19 (c) include a new linked jackpot arrangement under the permit; or

20 (d) include gaming machines on other licensed premises in a
21 linked jackpot arrangement; or

22 (e) amend a condition on the permit.

23 *Note* A fee may be determined under s 176 for this provision.

24 (2) The commission must amend the multi-user permit, or refuse to
25 amend the permit.

26 (3) The commission must not amend the multi-user permit unless
27 satisfied—

- 1 (a) if an additional gaming machine is proposed to be included in a
2 linked jackpot arrangement—that the additional machine—
- 3 (i) is the same class as the other machines in the
4 arrangement; and
- 5 (ii) offers the same chance of winning linked jackpots as each
6 other machine in the arrangement, if played with the same
7 stakes; and
- 8 (b) if a new linked jackpot arrangement is proposed to be included
9 under a permit—that each gaming machine to be linked—
- 10 (i) is the same class; and
- 11 (ii) offers the same chance of winning linked jackpots as each
12 other machine in the arrangement, if played with the same
13 stakes; and
- 14 (c) if gaming machines on other licensed premises are proposed to
15 be included in a linked jackpot arrangement (whether or not the
16 arrangement is an existing arrangement)—that the financial
17 and operational aspects of the arrangement are in accordance
18 with the regulations; and
- 19 (d) that the proposed amendment is satisfactory, having regard to
20 the interests of the people playing the machines in each
21 proposed linked jackpot arrangement.
- 22 (4) The amendment takes effect on the date stated in the notice of the
23 decision on the amendment given to the permit-holder by the
24 commission.

25 **140 Amendment of financial and operational aspects of multi-**
26 **user permits**

- 27 (1) This section applies if a multi-user permit-holder applies in writing
28 to the commission for an amendment of a financial or operational
29 aspect of a linked jackpot arrangement under a multi-user permit.

- 1 (2) The commission must amend the multi-user permit, or refuse to
2 amend the permit.
- 3 (3) The commission must amend the multi-user permit in accordance
4 with the application if—
- 5 (a) the financial and operational aspects of the arrangement, as
6 proposed to be amended, are in accordance with the
7 regulations; and
- 8 (b) the commission is satisfied that the proposed amendment is
9 satisfactory, having regard to the interests of the people playing
10 the machines in the arrangement.

11 **141 Transfer of multi-user permits**

- 12 (1) The holder of a multi-user permit and a person (the *proposed*
13 *permit-holder*) to whom the permit is proposed to be transferred
14 may apply jointly in writing to the commission for transfer of the
15 permit.
- 16 (2) The commission must transfer the permit to the proposed permit-
17 holder if satisfied on reasonable grounds that the proposed permit-
18 holder is an eligible person.

19 **142 Surrender of multi-user permits**

- 20 (1) This section applies to a multi-user permit-holder if the permit-
21 holder does not owe the Territory an amount under this Act.
- 22 (2) The multi-user permit-holder may surrender the permit by—
- 23 (a) giving the commission a written notice stating that the permit-
24 holder surrenders the permit; and
- 25 (b) returning the permit to the commission.
- 26 (3) The surrender of the multi-user permit takes effect 4 weeks after the
27 day the notice under subsection (2) (a) is given to the commission
28 or, if the notice states a later date of effect, that date.

1 **143 Unclaimed jackpots**

- 2 (1) This section applies if an amount won under a linked jackpot
3 arrangement authorised under section 134 for a licensee or approved
4 under section 135 is not claimed within 1 year after the day it is
5 won.
- 6 (2) The amount is forfeited to the Territory.
- 7 (3) After the amount is forfeited, the winner of the amount—
- 8 (a) is not entitled to recover the amount from the licensee or
9 permit-holder; and
- 10 (b) is entitled to recover the amount from the Territory within 6
11 years after the day the person wins the amount; and
- 12 (c) is not entitled to recover interest on the amount from the
13 Territory.

14 **144 Undisbursed jackpots**

- 15 (1) This section applies if an amount available for allocation as a prize
16 in a linked jackpot arrangement authorised under section 134 or a
17 multi-user permit has not been won, and cannot be won because the
18 authorisation or permit for the arrangement has been cancelled or
19 surrendered.

20 *Note* A permit may be cancelled under pt 4 (see s 62).

- 21 (2) The commission may approve an arrangement for the redistribution
22 of the amount as a prize, or an addition to another jackpot, if
23 satisfied that the arrangement is fair.
- 24 (3) However, the amount is forfeited to the Territory if—
- 25 (a) the person who held the authorisation or permit has stopped
26 operating gaming machines; or

- 1 (b) an approval under subsection (2) has not been given for the
2 amount 4 weeks after the day the authorisation or permit is
3 cancelled or surrendered.

1 **Part 9 Club administration**

2 **145 Eligible objects**

- 3 (1) An object of a club is an *eligible object* if—
- 4 (a) it furthers or promotes—
- 5 (i) recreation; or
- 6 (ii) social, religious, political, literary, scientific, artistic,
- 7 sporting or athletic purposes; or
- 8 (iii) cultural or educational purposes; or
- 9 (b) it is approved, in writing, by the commission; or
- 10 (c) it is substantially the same as an object mentioned in
- 11 paragraph (a) or (b).
- 12 (2) An approval under subsection (1) (b) is a disallowable instrument.

13 *Note* A disallowable instrument must be notified, and presented to the

14 Legislative Assembly, under the Legislation Act.

15 **146 Eligible clubs**

- 16 A club is an *eligible club* if—
- 17 (a) the club is incorporated in the ACT; and
- 18 (b) the club's statement of objects—
- 19 (i) includes eligible objects; and
- 20 (ii) indicates that the eligible objects together make up the
- 21 main part of its objects; and
- 22 (c) the club is conducted mainly to achieve eligible objects; and
- 23 (d) the rules of the club—

- 1 (i) are in accordance with the regulations; and
2 (ii) are consistent with the licence conditions under part 9;
3 and
4 (iii) do not prohibit the playing of games of chance for money
5 on the club premises; and
6 (e) the club has at least 300 voting members; and
7 (f) the number of life members of the club is not more than 5% of
8 the number of voting members of the club; and
9 (g) the premises occupied by the club, and the facilities and
10 property of the club, are kept and maintained for the benefit of
11 members generally.

12 **147 Associated organisations**

- 13 (1) The commission may, in writing, declare that an entity is an
14 associated organisation for a club.
15 (2) However, the commission may make a declaration for an entity only
16 if satisfied that—
17 (a) it is associated with the club; and
18 (b) it is not carried on for profit or gain to its members or anyone
19 else; and
20 (c) it is incorporated; and
21 (d) its statement of objects—
22 (i) includes eligible objects; and
23 (ii) indicates that the eligible objects together make up the
24 main part of its objects; and
25 (e) it is conducted mainly to achieve eligible objects; and

- 1 (f) approval of the entity as an associated organisation would not
2 cause the club to stop being conducted mainly to achieve
3 eligible objects.
- 4 (3) In this section—
- 5 (a) a reference to the *statement of objects* of an entity incorporated
6 under the Corporations Act is a reference to its memorandum;
7 and
- 8 (b) a reference to an *eligible object* of an entity that is not a club is
9 a reference to an object that would be an eligible object if the
10 entity were a club.

11 **148 Keeping records relating to club elections**

- 12 (1) This section applies if a club has an election of members to the
13 club's management committee or board, or another position in the
14 club.
- 15 (2) The club commits an offence if the club does not, for the relevant
16 period, keep records in relation to the election.
- 17 Maximum penalty: 20 penalty units.

- 18 (3) In this section:
- 19 *club* means a club in relation to whose premises a licence is in force.
20 *election* of someone to a position includes re-election of the person.
21 *relevant period* means 2 years after the day of the election.

22 **149 Power to require information about status of eligible**
23 **clubs**

- 24 (1) This section applies if the commission believes, on reasonable
25 grounds, that a club—
- 26 (a) is no longer an eligible club; or
27 (b) may no longer be an eligible club.

1 (2) The commission may, in writing, require the club to give the
2 commission, within a stated period, information or documents
3 relating to the club or an associated organisation for the club.

4 (3) A club must comply with a requirement under subsection (2).

5 (4) In this section:

6 *club* means a club in relation to whose premises a licence is in force.

7 **150 Disclosure of gifts by executive officer**

8 A person commits an offence if—

9 (a) the person is an executive officer of a club; and

10 (b) the person receives a gift while exercising a function as
11 executive officer; and

12 (c) the person does not tell the management committee or the
13 board about the gift.

14 Maximum penalty: 20 penalty units.

1 **Part 10** **Gaming areas**

2 **151** **Warning notices**

- 3 (1) The commission may, in writing, determine—
- 4 (a) the form and minimum dimensions of a notice (a *warning*
- 5 *notice*); and
- 6 (b) the text of a warning notice.

7 **Examples of what may be included in warning notice**

- 8 1 risks associated with gambling
- 9 2 counselling or other support services available for addictive or excessive
- 10 gambling
- 11 3 the provisions of this part about children

12 *Note* An example is part of the Act, is not exhaustive and may extend, but

13 does not limit, the meaning of the provision in which it appears (see

14 Legislation Act, s 126 and s 132).

- 15 (2) If the commission makes a determination under subsection (1), a
- 16 licensee must ensure that a warning notice complying with the
- 17 determination is displayed in a prominent position—

- 18 (a) on each gaming machine installed on the licensed premises;
- 19 and
- 20 (b) at or near each entrance to each gaming area within the
- 21 licensed premises.

- 22 (3) A licensee commits an offence if the licensee contravenes a
- 23 requirement of subsection (2).

24 Maximum penalty: 5 penalty units.

- 25 (4) An offence against subsection (3) is a strict liability offence.

1 (5) A determination under subsection (1) is a disallowable instrument.

2 *Note* A disallowable instrument must be notified, and presented to the
3 Legislative Assembly, under the Legislation Act.

4 (6) Unless the determination is disallowed by the Legislative Assembly,
5 the determination commences—

6 (a) 2 weeks after the last day when it could have been disallowed;
7 or

8 (b) if the determination provides for a later commencement—on
9 that later commencement.

10 **152 External signs**

11 (1) A licensee commits an offence if the licensee displays, or causes to
12 be displayed, an external sign advertising gaming machines or
13 promoting a gambling activity on the licensed premises.

14 Maximum penalty: 50 penalty units.

15 (2) An offence against subsection (1) is a strict liability offence.

16 (3) In this section:

17 *external sign*, for licensed premises, means a sign that can be seen
18 from outside the licensed premises, but does not include an
19 advertisement on television (other than closed-circuit television) or
20 on the internet.

21 **Example**

22 a written, electronic or physical display, picture or symbol

23 *Note* An example is part of the Act, is not exhaustive and may extend, but
24 does not limit, the meaning of the provision in which it appears (see
25 Legislation Act, s 126 and s 132).

26 *gambling activity* means an activity that requires approval under a
27 gaming law.

1 **153 Cash facilities**

2 (1) A licensee commits an offence if the licensee provides, or allows the
3 provision of, a cash facility in a gaming area within the licensed
4 premises.

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

7 (2) If the commission is satisfied that there is not adequate physical
8 separation between a gaming area of licensed premises and a cash
9 facility on the premises, the commission may give the licensee a
10 written direction to separate the parts of the premises.

11 **Example**
12 by installing barriers

13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).

16 (3) A licensee must comply with a direction under subsection (2).

17 (4) In this section:

18 *cash facility*—

19 (a) means—

20 (i) an automatic teller machine; or

21 (ii) an EFTPOS facility; or

22 (iii) any other facility for gaining access to cash or credit; but

23 (b) does not include a facility where cash is exchanged for other
24 denominations of cash, tokens, tickets or cards for the purpose
25 of playing machines.

26 **154 Lending or extending credit**

27 (1) A person commits an offence if—

28 (a) the person is a licensee or licensee's employee; and

- 1 (b) the person—
- 2 (i) lends or offers to lend money to a person who is in, or
- 3 appears to be about to enter, the licensed premises or part
- 4 of them; or
- 5 (ii) extends or offers to extend credit to a person to allow the
- 6 person to play a gaming machine on the licensed
- 7 premises.

8 Maximum penalty: 50 penalty units, imprisonment for 6 months or

9 both.

- 10 (2) In this section:

11 *credit* includes accepting postdated cheques, blank cheques and

12 credit and debit cards.

13 **155 Children must not enter gaming area**

- 14 (1) A licensee commits an offence if the licensee allows a child to enter
- 15 or remain in a gaming area.

16 Maximum penalty: 50 penalty units.

- 17 (2) An employee of a licensee commits an offence if the employee
- 18 allows a child to enter or remain in a gaming area.

19 Maximum penalty: 50 penalty units.

- 20 (3) An offence against this section is a strict liability offence.

21 **156 Children must not play gaming machines**

- 22 (1) A licensee commits an offence if the licensee allows a child to play
- 23 a gaming machine.

24 Maximum penalty: 50 penalty units.

- 25 (2) An offence against this section is a strict liability offence.

1 **157 Using false identification**

2 (1) A person commits an offence if the person uses someone else's
3 identification or a form of identification that is forged—

4 (a) to obtain entry to or remain in a gaming area on licensed
5 premises; or

6 (b) to play a gaming machine.

7 Maximum penalty: 10 penalty units.

8 (2) An offence against this section is a strict liability offence.

1 **Part 11 Finance**

2 **Division 11.1 General**

3 **158 Audit of records**

- 4 (1) A licensee must, as soon as practicable (but no later than 6 months)
5 after the end of each financial year ensure that—
- 6 (a) the accounts relating to the operation of gaming machines on
7 the licensed premises during the year are audited by a qualified
8 accountant; and
- 9 (b) an income and expenditure statement is prepared for the year
10 relating to—
- 11 (i) the operation of gaming machines on the licensed
12 premises; and
- 13 (ii) if the licensee is a club—the club’s financial operations.
- 14 (2) A licensee must, as soon as practicable (but no later than 1 month)
15 after the preparation of an income and expenditure statement under
16 subsection (1), give the commission a copy of the statement certified
17 as correct by the person who prepared it, together with a report
18 stating, as at the end of the period to which the statement relates—
- 19 (a) the class, number and kind of gaming machines installed on the
20 licensed premises; and
- 21 (b) if the licensee is a club—the number of club members; and
- 22 (c) any other details the commission requires in writing.

23 **159 Gaming machine tax**

- 24 (1) Gaming machine tax is payable on the gross revenue in relation to
25 the operation of gaming machines each month, whether or not the
26 operation is lawful.

1 (2) The Minister may, in writing, determine the rate at which gaming
2 machine tax is payable.

3 (3) A determination under subsection (2) is a disallowable instrument.

4 *Note* A disallowable instrument must be notified, and presented to the
5 Legislative Assembly, under the Legislation Act.

6 **160 Payment of gaming machine tax**

7 (1) Gaming machine tax in relation to the operation of a gaming
8 machine must be paid by—

9 (a) in relation to a machine operated lawfully—the licensee; or

10 (b) in relation to a machine operated unlawfully—

11 (i) the person receiving the gross revenue; or

12 (ii) the occupier of the premises where the machine is
13 operated.

14 (2) If subsection (1) (b) applies, the person receiving the gross revenue
15 from the operation of the relevant gaming machine and the occupier
16 of the premises where the machine is operated are jointly and
17 severally liable to pay tax under subsection (1).

18 (3) Gaming machine tax in relation to the operation of a gaming
19 machine during a month is payable on the 7th day after the end of
20 the month.

21 **161 Gaming machine tax returns**

22 (1) Within 1 week after the end of a month, a licensee must give the
23 commission a return relating to the gross revenue in relation to the
24 operation of gaming machines during that month under the licence.

25 (2) A return must be in writing.

26 *Note* If a form is approved under the Control Act, s 53D for a return, the form
27 must be used.

1 (3) To remove any doubt, the return may be given by emailing it to the
2 commission.

3 **162 Payment of gaming machine tax following transfer**

4 (1) If a licence is transferred, the person (the *transferor*) from whom
5 the licence is transferred must pay the commission the prescribed
6 amount within 1 week after the date of transfer.

7 (2) In this section:

8 *licensed period* means the period beginning on the 1st day of the
9 month when the transfer happens and ending on the date of transfer.

10 *prescribed amount* means the amount of gaming machine tax that
11 would be payable in relation to the licensed period if the transferor
12 did not transfer the licence.

1 **Part 12 Community contributions**

2 **163 Approval of community contributions**

3 (1) The commission may approve contributions made by a licensee to a
4 stated entity for a stated purpose as community contributions if
5 satisfied the contributions will have the effect of—

6 (a) contributing to or supporting the development of the
7 community; or

8 (b) raising the standard of living of the community or part of the
9 community.

10 **Examples of areas of contributions**

11 1 charitable and social welfare

12 2 sport and recreation

13 3 non-profit activities

14 4 community infrastructure

15 *Note* An example is part of the Act, is not exhaustive and may extend, but
16 does not limit, the meaning of the provision in which it appears (see
17 Legislation Act, s 126 and s 132).

18 (2) The regulations may make provision in relation to contributions,
19 including—

20 (a) guidelines for approving contributions as community
21 contributions; and

22 (b) how contributions may be claimed.

23 **Example**

24 A capital payment may be claimed proportionately over a number of years.

25 (3) In this section:

26 ***community*** includes a community outside the ACT.

27 ***contribution***, by a licensee—

-
- 1 (a) includes the value of a contribution made in kind by the
2 licensee; but
- 3 (b) does not include the following:
- 4 (i) expenditure on commercial activities, or, if the licensee is
5 a club, on the social or entertainment activities of the club
6 for its members;
- 7 (ii) expenditure intended to promote the licensee's activities;
- 8 (iii) expenditure in relation to gambling (for example, the
9 purchase of gaming machines);
- 10 (iv) capital payments for assets owned, controlled or being
11 acquired by the licensee or an associated entity that are
12 not available to be used by the public;
- 13 (v) capital payments or other expenditure on assets owned,
14 controlled or being acquired by the licensee, if the assets
15 are not in the ACT;
- 16 (vi) notional provisions (for example, long service and annual
17 leave), other than depreciation;
- 18 (vii) a contribution made out of donations collected by the
19 licensee, or out of the proceeds of any special fundraising
20 activity conducted by the licensee;
- 21 (viii) a contribution to a business association, registered party,
22 associated entity or trade union;
- 23 (ix) if a contribution is made on a condition—the value to the
24 licensee of that condition being fulfilled;
- 25 (x) if an asset is otherwise a contribution—the value of any
26 income earned from the asset (for example, entry or
27 hiring fees);
- 28 (xi) a contribution made to another licensee under a reciprocal
29 arrangement or agreement;
-

1 (xii) the cost of borrowing funds to acquire an asset.

2 **164 Records of contributions**

- 3 (1) A licensee must record each community contribution made by the
4 licensee, stating—
5 (a) the entity to which, and the purpose for which, each
6 contribution was made; and
7 (b) the amount or value of the contribution and the date when, or
8 period over which, it was made.

9 Maximum penalty: 20 penalty units.

10 (2) To remove any doubt, a record must relate to single licensed
11 premises.

12 (3) An offence against this section is a strict liability offence.

13 **165 Report about records and finances**

14 (1) Within 1 month after the end of a financial year, a licensee must
15 give the commission a copy of the records kept under section 164
16 that relate to the financial year, together with a financial report for
17 the financial year.

18 Maximum penalty: 20 penalty units.

19 (2) In this section:

20 *financial report* means a report about the following:

- 21 (a) the gross revenue of the licensee;
22 (b) if the licensee is a club—the net revenue of the licensee;
23 (c) the total value of community contributions.

24 *Note* If a form is approved under the Control Act, s 53D for a financial
25 report, the form must be used.

1 **166 Commission must report to Minister**

2 Within 4 months after the end of the financial year, the commission
3 must give the Minister a report—

- 4 (a) summarising the extent of compliance by licensees with
5 section 164 and section 165 for the financial year; and
6 (b) analysing the extent to which revenue received by licensees
7 was being used to make community contributions during the
8 financial year.

9 **167 Minister must present commission's report**

10 The Minister must present a report given to the Minister under
11 section 166 to the Legislative Assembly within 6 sitting days after
12 the day the Minister receives the report.

13 **168 Required community contributions**

- 14 (1) For a licensee that is a club, the *required community contribution*
15 for a financial year is the required percentage of the club's net
16 revenue for the financial year.
- 17 (2) In subsection (1):
18 *required percentage*, for a club, means—
19 (a) 7%; or
20 (b) if the Minister determines a different percentage under
21 subsection (3) for the club—that percentage.
- 22 (3) The Minister may, in writing, determine a lower required
23 community contribution for a club if satisfied, on application by the
24 club, that—
25 (a) the gross revenue of the club for a financial year is, or is likely
26 to be, less than \$200 000; and

1 (b) if the required percentage for the club were 7%, the application
2 of subsection (1) to the club would so seriously affect the
3 club's viability that it would not be just and equitable in the
4 circumstances for that subsection to apply to the club.

5 (4) A determination under subsection (3) is a disallowable instrument.

6 *Note* A disallowable instrument must be notified, and presented to the
7 Legislative Assembly, under the Legislation Act.

8 **169 Corporations with several licences**

9 (1) This section applies to a club that is a licensee if a corporation owns
10 the club and at least 1 other club that is a licensee.

11 (2) In working out the community contributions for the club, common
12 expenditure on behalf of the different clubs must be allocated
13 between the clubs in proportion to the number of gaming machines
14 operated by each club.

15 **170 Women's sport community contributions**

16 (1) For every \$3 of women's sport community contributions that a
17 licensee contributes to an entity under section 163 (1), the licensee's
18 required community contributions must be worked out as if the
19 licensee had contributed \$4.

20 (2) In this section:

21 *women's sport community contributions* means community
22 contributions that the commission is satisfied will benefit or enhance
23 women's sport conducted in the ACT, or with participants mainly
24 based in the ACT.

25 **171 Community contribution shortfall tax**

26 (1) Tax (the *community contribution shortfall tax*) is imposed on a
27 community contribution shortfall of a licensee that is a club at the
28 rate of 100%.

- 1 (2) The licensee must pay the community contribution shortfall tax.
- 2 (3) Community contribution shortfall tax is payable 30 days after the
3 day the licensee receives an assessment under the Control Act,
4 part 6.
- 5 (4) If an amount of community contribution shortfall tax is paid, the
6 commission must transfer the amount to the grants program fund or,
7 if another fund is prescribed under the regulations, that fund.
- 8 (5) In this section:
- 9 ***community contribution shortfall***, for a licensee that is a club in
10 relation to a financial year, means the amount (if any) by which the
11 club's community contributions fall short of its required community
12 contribution.

1 **Part 13 Miscellaneous**

2 **172 Review of decisions**

3 (1) Application may be made to the AAT for review of a reviewable
4 decision.

5 (2) If the commission makes a reviewable decision, the commission
6 must give a written notice of the decision to each person affected by
7 the decision.

8 (3) The notice must be in accordance with the requirements of the code
9 of practice in force under the *Administrative Appeals Tribunal Act*
10 *1989*, section 25B (1).

11 (4) In this section:

12 *reviewable decision* means a decision by the commission mentioned
13 in schedule 1.

14 **173 Acts and omissions of representatives**

15 (1) In this section:

16 *person* means an individual.

17 *Note* See the Criminal Code, pt 2.5 for provisions about corporate criminal
18 responsibility.

19 *representative*, of a person, means an employee or agent of the
20 person.

21 *state of mind*, of a person, includes—

22 (a) the person’s knowledge, intention, opinion, belief or purpose;
23 and

24 (b) the person’s reasons for the intention, opinion, belief or
25 purpose.

- 1 (2) This section applies to a prosecution for any offence against this
2 Act.
- 3 (3) If it is relevant to prove a person's state of mind about an act or
4 omission, it is enough to show—
- 5 (a) the act was done or omission made by a representative of the
6 person within the scope of the representative's actual or
7 apparent authority; and
- 8 (b) the representative had the state of mind.
- 9 (4) An act done or omitted to be done on behalf of a person by a
10 representative of the person within the scope of the representative's
11 actual or apparent authority is also taken to have been done or
12 omitted to be done by the person.
- 13 (5) However, subsection (4) does not apply if the person establishes that
14 reasonable precautions were taken and appropriate diligence was
15 exercised to avoid the act or omission.
- 16 (6) A person who is convicted of an offence cannot be punished by
17 imprisonment for the offence if the person would not have been
18 convicted of the offence without subsection (3) or (4).

19 **174 Canberra Airport**

- 20 (1) A licence must not be issued in relation to premises at Canberra
21 Airport.
- 22 (2) An approval must not be given under section 100 for the acquisition
23 of a gaming machine to be operated at Canberra Airport.
- 24 (3) In this section:
- 25 *Canberra Airport* means block 3, sections 17 and 28, division of
26 Pialligo in the district of Majura, and blocks 587, 594, 595, 614 and
27 660 in that district.

1 **175 Evidentiary certificates**

2 In a prosecution for an offence against this Act, a certificate issued
3 by the commission stating that the person named in the certificate
4 was or was not the holder of a licence on the date, or during the
5 period, stated in the certificate is evidence of the matters so stated.

6 **176 Determination of fees**

7 (1) The Minister may, in writing, determine fees for this Act.

8 *Note* The Legislation Act contains provisions about the making of
9 determinations and regulations relating to fees (see pt 6.3).

10 (2) A determination is a disallowable instrument.

11 *Note* A disallowable instrument must be notified, and presented to the
12 Legislative Assembly, under the Legislation Act.

13 **177 Regulation-making power**

14 (1) The Executive may make regulations for this Act.

15 *Note* Regulations must be notified, and presented to the Legislative
16 Assembly, under the Legislation Act.

17 (2) The regulations may make provision in relation to the following:

18 (a) the operation (including the restriction of the operation) of
19 peripheral equipment for gaming machines;

20 (b) the minimum payout for gaming machines.

21 (3) The regulations may create offences for contraventions of the
22 regulations and fix maximum penalties of not more than 10 penalty
23 units for offences against the regulations.

- 1 **178 Legislation amended or repealed**
- 2 (1) This Act amends the *Gambling and Racing Control Act 1999* in
- 3 schedule 2.
- 4 (2) This Act repeals the following legislation:
- 5 • *Gaming Machine Act 1987* A1987-34
- 6 • *Gaming Machine Regulations 1987* SL1987-7
- 7 • *Gaming Machine Act 1987 Approval* DI2001-168
- 8 • *Gaming Machine Act 1987 Determination* DI2000-232
- 9 • *Gaming Machine Act 1987 Determination of Fees* DI1999-280
- 10 • *Gaming Machine Act 1987 Determination of Fees* DI2000-211
- 11 • *Gaming Machine Determination 1998* DI1998-179
- 12 • *Gaming Machine (Guidelines for Approving Community*
- 13 *Contributions—Women’s Sports) 2002 (No 1)* DI2002-119
- 14 • *Gaming Machine (Required Community Contributions)*
- 15 *Determination 2002 (No 1)* DI2002-164
- 16 • *Gaming Machine (Social Impact Assessments) Guidelines 2004*
- 17 *(No 1)* DI2004-30.

1 **Part 14 Transitional**

2 **179 Definitions for pt 14**

3 In this part:

4 *commencement day* means the day the *Gaming Machine Act 1987*
5 is repealed.

6 *former gaming Act* means the *Gaming Machine Act 1987*.

7 **180 Licences**

8 (1) A licence under the former gaming Act is taken to be a licence
9 under this Act.

10 (2) To remove any doubt, the conditions of a licence mentioned in
11 subsection (1) includes the conditions included in a licence under
12 this Act.

13 (3) The rules adopted by the licensee under the former Act are taken to
14 be the licensee's rules under this Act.

15 **181 Clubs**

16 (1) This section applies if a club that had a licence under the former
17 gaming Act has less than 300 voting members on commencement
18 day.

19 (2) The commission must, by written notice to the club, cancel the
20 club's licence under this Act if, 1 year after commencement day, the
21 club does not have 300 or more voting members.

22 (3) In deciding whether the club is an eligible club for this Act,
23 section 146 (e) may not be taken into account in relation to the club
24 for 1 year after commencement day.

1 **182 Rules and control procedures**

- 2 (1) This section applies to a person (the *licensee*) who was a licensee
3 under the former gaming Act immediately before commencement
4 day.
- 5 (2) The licensee must, within 6 months after commencement day, give
6 the commission a copy of the rules and control procedures the
7 licensee has adopted to control the operation of gaming machines on
8 the licensed premises.
- 9 (3) If the commission is not satisfied that the rules and control
10 procedures adequately control the operation of gaming machines on
11 the licensed premises, the commission may give the licensee a
12 direction in relation to the rules and procedures.
- 13 (4) The licensee must comply with the direction.
- 14 (5) Section 43 (Rules and control procedures for operation of gaming
15 machines) does not apply to the person until the earlier of the
16 following:
- 17 (a) the day the licensee adopts the rules and control procedures;
- 18 (b) 6 months after commencement day.
- 19 (6) A decision to give a direction under subsection (3) is taken to be a
20 reviewable decision.

21 **183 Disciplinary proceedings under former gaming Act**

- 22 (1) This section applies if—
- 23 (a) the commission had begun to take disciplinary action against a
24 person under the former gaming Act, division 4.3 (Disciplinary
25 action by commission); and
- 26 (b) immediately before commencement day, the disciplinary
27 action had not finished.

- 1 (2) The disciplinary action may be continued under this Act as if it had
2 been begun under this Act.
- 3 (3) If something required to be done under this Act for disciplinary
4 action has not been done because it was not required to be done
5 under the former gaming Act—
- 6 (a) the failure to do the thing does not affect the action being
7 taken; and
- 8 (b) the commission may take any action it considers appropriate to
9 facilitate dealing with the disciplinary action under this Act.

10 **184 Approvals under former gaming Act**

- 11 (1) This section applies if the commission had approved—
- 12 (a) an amendment or transfer of a licence or approval; or
- 13 (b) a gaming area, gaming machine, supplier, technician or
14 attendant.
- 15 (2) The approval is taken to be an approval under this Act.

16 **185 Linked jackpot arrangements**

- 17 (1) This section applies if, immediately before commencement day, a
18 club was approved to operate a linked jackpot arrangement under
19 the former gaming Act, section 45A.
- 20 (2) The club is taken to be authorised under section 134 to operate the
21 arrangement.

22 **186 Clubs not required to be corporations for s 146**

- 23 (1) This section applies to a club that—
- 24 (a) was a licensee on 30 June 2000; and
- 25 (b) had a corrected gross revenue of less than \$500 000 in the
26 financial year ending 30 June 2000.

1 (2) Section 146 (a) does not apply to the club until the relevant period
2 after a later financial year in which the club has a gross revenue of
3 \$500 000 or more.

4 (3) In this section:

5 *corrected gross revenue*—if the club is a licensee for only a fraction
6 (*F*) of a financial year, and has a gross revenue for that time of *R*,
7 the club's *corrected gross revenue* for the year is *R/F*.

8 *relevant period* means 6 months or any longer period (of not more
9 than 2 years) that the commission allows in writing on the
10 application of the club.

11 **187 Clubs with too many life members for s 146**

12 (1) This section applies to a club if, on 1 January 1992, more than 5%
13 of the voting members of the club were life members.

14 (2) The eligibility of the club is not to be taken to be affected only
15 because it does not satisfy section 146 (f).

16 (3) However, the club stops being an eligible club if—

17 (a) more than 5% of the voting members of the club are life
18 members; and

19 (b) the club grants life membership to another voting member.

20 **188 Expiry of pt 14**

21 This part expires 1 year after commencement day.

Schedule 1 Reviewable decisions

(see s 172)

column 1 item	column 2 decision of commission
1	refusing an application for a licence under section 12
2	issuing a licence under section 12 if the number or kind of gaming machines stated in the licence differs from the number or kind of gaming machines applied for
3	refusing to amend a licence under section 24, section 25 or section 26
4	revoking an uncommenced licence amendment under section 29
5	refusing to approve the transfer of a licence under section 32
6	refusing to give a replacement licence under section 38
7	giving a licensee a direction for section 40
8	taking disciplinary action under section 62
9	refusing to approve a supplier under section 72
10	refusing to approve a technician under section 75
11	refusing to approve the transfer of a technician's approval under section 78
12	cancelling or suspending a technician's approval under section 79
13	reprimanding a technician under section 79
14	refusing to renew an approved technician's approval under section 84
15	refusing to approve an attendant under section 86
16	refusing to approve the transfer of an attendant's approval under section 89

column 1 item	column 2 decision of commission
17	cancelling or suspending an attendant's approval under section 91
18	reprimanding an attendant under section 91
19	refusing to renew an approved attendant's approval under section 96
20	refusing to approve the acquisition of a gaming machine under section 100
21	refusing to approve a financial arrangement under section 102, or an amendment of an arrangement
22	refusing to approve the repossession of a gaming machine under section 108
23	approving the repossession of a gaming machine subject to a condition under section 109 (2)
24	refusing to approve the disposal of a gaming machine under section 113
25	refusing to authorise a linked jackpot arrangement under section 134
26	refusing to issue a multi-user permit under section 135
27	issuing a multi-user permit under section 135 subject to a condition, other than a condition imposed by this Act
28	amending a multi-user permit under section 138
29	refusing to amend a multi-user permit under section 139
30	refusing to approve the amendment of the financial and operational aspects of a linked jackpot arrangement under section 140
31	refusing to transfer a multi-user permit under section 141
32	refusing to approve an entity under section 147

Schedule 1 Reviewable decisions

column 1 item	column 2 decision of commission
33	giving a direction under section 153 (2) about the separate parts of licensed premises
34	refusing to approve contributions as community contributions under section 163

1 **Schedule 2** **Gambling and Racing Control**
2 **Act 1999**

3 see s 178

4 **[2.1] Section 3, definition of *gaming law*, paragraph (b)**

5 *substitute*

6 (b) in relation to the Commonwealth, a State, another Territory or
7 a foreign country, (the *other jurisdiction*)—means a law of the
8 other jurisdiction that relates to gaming or racing.

9 **[2.2] Section 3, definition of *reciprocating jurisdiction***

10 *omit*

11 or another Territory

12 *substitute*

13 , another Territory or New Zealand

14 **[2.3] Section 4 (f)**

15 *substitute*

16 (f) the Gaming Machine Act 2004;

17 **[2.4] Schedule 2, new clause 7**

18 *insert*

19 7 To remove any doubt, a member of the commission who has taken
20 part in a decision to reprimand a person under a gaming law is not
21 prevented from taking part in a decision about whether further
22 disciplinary action should be taken under that law for contravention
23 of a direction included in the reprimand, only because the member
24 took part in the decision to give the reprimand.

1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • AAT
- 7 • ACT
- 8 • adult
- 9 • appoint
- 10 • child
- 11 • Commonwealth
- 12 • contravene
- 13 • Corporations Act
- 14 • Criminal Code
- 15 • disallowable instrument
- 16 • Executive
- 17 • fail
- 18 • found guilty
- 19 • gambling and racing commission
- 20 • individual
- 21 • law, of the Territory
- 22 • Legislation Act
- 23 • may (see s 146)
- 24 • must (see s 146)
- 25 • penalty unit (see s 135)
- 26 • prescribed
- 27 • regulations
- 28 • the Territory
- 29 • under.

30 ***acquire*** a gaming machine, means take possession of the machine
31 for the purpose of using it for gaming.

- 1 **acquisition approval application**—see section 99.
- 2 **approval certificate**—
- 3 (a) for an approved technician—see section 80 (2) (a) (Certificates
4 and identity cards for approved technicians);
- 5 (b) for an attendant—see section 92 (2) (a) (Certificates for
6 approved attendants).
- 7 **approved attendant** means an attendant approved under section 86
8 (Approval of attendants) or section 87 (Short-term approval of
9 attendants).
- 10 **approved gaming machine** means a gaming machine approved
11 under section 69.
- 12 **approved supplier** means a supplier approved under section 72.
- 13 **approved technician** means a technician approved under section 75
14 (Approval of technicians) or section 76 (Short-term approval of
15 technicians).
- 16 **associated entity**—see the *Electoral Act 1992*, section 198.
- 17 **associated organisation**, for a club, means an entity declared to be
18 an associated organisation under section 147.
- 19 **authorised officer** means an authorised officer under the Control
20 Act, section 20.
- 21 **centralised monitoring system (or CMS)**—see section 66.
- 22 **certificate of suitability**—see section 17 (2) (b).
- 23 **charitable organisation** means a body, whether or not incorporated,
24 formed or carried on mainly for charitable, benevolent,
25 philanthropic or religious purposes, but does not include a body
26 formed or carried on for the purpose of trading or gaining a financial
27 profit for its members.
- 28 **class B gaming machine** means a gaming machine consisting of the
29 game of draw poker, or a game derived from draw poker, that

- 1 requires player interaction or intervention as part of the fundamental
2 game operation.
- 3 ***class C gaming machine*** means a gaming machine that consists of a
4 game other than the following games or games derived from them:
- 5 (a) roulette;
 - 6 (b) blackjack;
 - 7 (c) sic bo;
 - 8 (d) craps;
 - 9 (e) pai gow;
 - 10 (f) baccarat;
 - 11 (g) two-up;
 - 12 (h) money wheel;
 - 13 (i) draw poker.
- 14 ***club*** means a corporation established for the benefit of members to
15 achieve eligible objects.
- 16 ***CMS***—see definition of ***centralised monitoring system***.
- 17 ***community contribution*** means a contribution made by a licensee
18 that is approved as a community contribution under section 163.
- 19 ***community contribution shortfall tax***—see section 171 (1).
- 20 ***computer cabinet*** means the sealable part of a gaming machine that
21 contains the game storage medium and the random access memory.
- 22 ***constitution*** means—
- 23 (a) for a club that is a company—the memorandum, and any
24 articles of association, of the company; or
 - 25 (b) for a club that is an incorporated association—the statement of
26 objects and the rules of the association.

- 1 **contribution** means any money, benefit, valuable consideration or
2 security.
- 3 **Control Act** means the *Gambling and Racing Control Act 1999*.
- 4 **control procedures**, for an entity, means the procedures under
5 section 97.
- 6 **corporation** includes a club.
- 7 **current licensee**, for division 2.6 (Transfer and surrender of
8 licences)—see section 31 (1).
- 9 **disciplinary action**—see section 58.
- 10 **disciplinary notice**—see section 61.
- 11 **dispose of** a gaming machine includes the following:
- 12 (a) lease or hire the machine to a person;
- 13 (b) destroy the machine;
- 14 (c) make the machine inoperable.
- 15 **eligible club**—see section 146.
- 16 **eligible object**—see section 145.
- 17 **eligible person**—
- 18 (a) for an individual—see section 20;
- 19 (b) for a corporation—see section 21.
- 20 **employ** includes engage.
- 21 **executive officer**, of a corporation, means a person, by whatever
22 name called and whether or not the person is a director of the
23 corporation, who is concerned with, or takes part in, the
24 corporation's management.
- 25 **financial arrangement**—see section 101.

1 **game**, in relation to a gaming machine, means a play, or a series of
2 plays, initiated by the application of a single stake registered on the
3 machine.

4 **gaming area** means a room or other area within licensed premises
5 approved under section 120 for the installation of gaming machines.

6 **gaming machine**—

7 (a) means a machine—

8 (i) designed for playing a game of chance, or of mixed
9 chance and skill; and

10 (ii) designed to be played completely or partly by—

11 (iii) the insertion of 1 or more coins, notes or tokens; or

12 (iv) by the application of a monetary credit registered on the
13 machine or elsewhere; and

14 (v) that offers, or that appears to offer, people a chance to win
15 monetary or other valuable consideration by playing the
16 machine; but

17 (b) does not include a device prescribed under the regulations.

18 **gaming machine tax** means the tax imposed by section 159.

19 **general licence** means a general licence under the *Liquor Act 1975*.

20 *Note* For the classes of liquor licences see the *Liquor Act 1975*, s 44.

21 **gross revenue**, of a licensee or person, means all revenue derived by
22 the licensee or person from the operation of gaming machines, other
23 than—

24 (a) the amount of winnings for playing the machines paid or
25 payable in accordance with the machines' indicated prize
26 scales (excluding linked jackpots); and

27 (b) any amount set aside under a linked jackpot arrangement for
28 the payment of linked jackpots.

- 1 **ground for disciplinary action** against a licensee—see section 57.
- 2 **incorporated association** means an association incorporated under
3 the *Associations Incorporation Act 1991*.
- 4 **influential person**, for a corporation—see section 7.
- 5 **initial licence application**—see section 9.
- 6 **inquiry** means an inquiry held by the commission under the Control
7 Act.
- 8 **jackpot**, in relation to a gaming machine, means the combination of
9 letters, numbers, symbols or representations as part of a game on the
10 machine that pays the maximum winnings payable on the machine
11 for any 1 combination.
- 12 **licence** means—
- 13 (a) a gaming machine licence issued under this Act; and
- 14 (b) in relation to a person authorised under section 134—the
15 authorisation; and
- 16 (c) in relation to a permit-holder under part 8 (Linked jackpot
17 arrangements)—a multi-user permit.
- 18 **licence amendment application**—see section 9.
- 19 **licensed premises** means premises for which a licence is in force.
- 20 **licensee** means—
- 21 (a) in relation to a licence—the holder of the licence; and
- 22 (b) in relation to licensed premises—the holder of the licence in
23 force for the premises; and
- 24 (c) for part 4 (Disciplinary action)—see section 56.
- 25 **life member**, of a club, means a person who is elected to
26 membership of the club for life under the rules of the club.

- 1 **linked jackpot** means winnings under a linked jackpot arrangement
2 operated in accordance with an authorisation or permit under part 8.
- 3 **linked jackpot arrangement** means an arrangement under which 2
4 or more gaming machines are linked to a device—
- 5 (a) that, from time to time, records the amount payable as
6 winnings under the arrangement; and
- 7 (b) that, for the purpose of recording the amount mentioned in
8 paragraph (a), receives messages from each machine to which
9 it is linked; and
- 10 (c) that cannot affect the percentage payout of, or transmit a
11 message to, a machine to which it is linked.
- 12 **local jurisdiction** means a State or New Zealand.
- 13 **machine access register**—see section 71.
- 14 **maintain** a gaming machine includes repair, adjust or alter the
15 machine.
- 16 **member**, of a club, means—
- 17 (a) a member who, under the rules of the club, is required to pay
18 fees; or
- 19 (b) a life member.
- 20 **multi-user permit**—see section 135.
- 21 **net revenue**, of a licensee that is a club, means gross revenue
22 derived by the licensee, less—
- 23 (a) any amount of gaming machine tax payable on that revenue;
24 and
- 25 (b) 15% of the gross revenue.

- 1 **officer** of a club—
- 2 (a) means—
- 3 (i) any office-holder of the club (however described),
- 4 including the secretary, treasurer, executive officer or
- 5 public officer; or
- 6 (ii) anyone else concerned in or who takes part in the
- 7 management of the club's affairs; but
- 8 (b) does not include a patron or the holder of another honorary
- 9 office of the club if the office does not give its holder a right to
- 10 take part in the management of the club's affairs.
- 11 **on licence** means a general licence under the *Liquor Act 1975*.
- 12 *Note* For the classes of liquor licences see the *Liquor Act 1975*, s 44.
- 13 **operator**, of relevant premises, means the person who manages the
- 14 premises.
- 15 **percentage payout**, for a gaming machine, means the percentage
- 16 payout authorised for the machine under the licence.
- 17 **peripheral equipment**, for a gaming machine—see section 68.
- 18 **permit-holder** means the holder of an interclub permit.
- 19 **proposed gaming area**, in relation to an application—see section 11
- 20 (2) (b).
- 21 **prospective licensee**, for division 2.6 (Transfer and surrender of
- 22 licences)—see section 31 (1).
- 23 **qualified accountant** means—
- 24 (a) a member of the Institute of Chartered Accountants in
- 25 Australia, the National Institute of Accountants or the
- 26 Australian Society of Certified Practising Accountants; or
- 27 (b) a person registered as a registered company auditor under the
- 28 Corporations Act.

- 1 **registered party**—see the *Electoral Act 1992*, dictionary.
- 2 **relevant premises** means the premises for which a person has
3 applied for a licence.
- 4 **repossession** of a gaming machine includes taking possession of the
5 machine under a default provision in a financial agreement.
- 6 **required community contribution**, for a licensee that is a club—see
7 section 168 (1).
- 8 **rules**, for an entity, means the rules mentioned in section 11 (2) (c).
- 9 **secretary**, in relation to a club, includes a person concerned in the
10 management of the club.
- 11 **short-term approval**—
- 12 (a) for an attendant—see section 87 (3); and
- 13 (b) for a technician—see section 76 (3).
- 14 **statement of objects** of a club, means—
- 15 (a) for a company—the memorandum of the company; or
- 16 (b) for an incorporated association—the statement of objects of the
17 association.
- 18 **social impact assessment**, for an initial licence application or an
19 amendment licence application, means a social impact assessment
20 for the application under division 2.3.
- 21 **technical evaluation** means a technical evaluation under section 69.

Endnote

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2004.

2 Notification

Notified under the Legislation Act on 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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