EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY
GAMING MACHINE ORDINANCE 1987
UNLAWFUL GAMES (AMENDMENT) ORDINANCE 1987
No. 24 OF 1987

ISSUED BY AUTHORITY OF THE MINISTER OF STATE FOR TERRITORIES


As implementation of the recommendations required extensive amendments to the Poker Machine Control Ordinance 1975, it was considered more convenient, and likely to be clearer to potential gaming machine licensees, to repeal the Poker Machine Control Ordinance 1975 and to introduce a new Ordinance.

The Unlawful Games (Amendment) Ordinance 1987 amends the Unlawful Games Ordinance 1984 to deal with minor amendments as a consequence of the proposed Australian Capital Territory Gaming and Liquor Authority Ordinance 1987.

Details of the Gaming Machine Ordinance 1987 and the Unlawful Games (Amendment) Ordinance 1987 are set out in Attachments A and B respectively.
GAMING MACHINE ORDINANCE 1987

Section 1 cites the title of the proposed Ordinance as the Gaming Machine Ordinance 1987.

Section 2 provides for commencement of the proposed Ordinance on a date to be fixed by the Minister of State for Territories by notice in the Gazette.

Section 3 repeals the Ordinances specified in the Schedule to the proposed Ordinance.

Section 4 deals with interpretation. In particular, it defines the 3 classes of gaming machine as follows:

a) a class A gaming machine is a gaming machine that can be operated by one coin at a time only, winnings can only be paid by the machine discharging coins, and the maximum winnings payable on any one game is limited to not more than 40 times the value of the coin used to play a game of chance on the machine;

b) a class B gaming machine can be either a single-coin or multi-coin machine with winnings payable either by the discharge of coins, or by the registration of a credit of coins on the machine, or in some other manner (such as by the licensee paying a "jackpot" in cash), and must be declared by the Minister, by notice in the Gazette, to be a class B gaming machine. With changing technology in this area new machines will become available and, if appropriate, will be declared to be class B gaming machines. The proposed declaration of such machines includes draw poker machines, pontoon machines and video quarter horse racing machines;

c) a class C gaming machine can be either a single-coin or multi-coin machine with winnings payable either by the discharge of coins, or by the registration of a credit of coins or in some other manner and must be prescribed by regulation to be a class C gaming machine. The machines to be prescribed by regulation are poker machines, slot machines and fruit machines.

Section 4 also defines "multi-coin machine" and "single-coin machine" as follows:

a) a multi-coin machine is a gaming machine that is designed so that the person operating the machine may elect to apply 1 or more, but no more than 5, coins in respect of any one game and is limited to receiving coins of the value of 10 cents or less;
b) a single-coin machine is a gaming machine that can only receive one coin in respect of any one game and is limited to receiving coins of the value of 20 cents or less.

Paragraph 5(a) provides that, notwithstanding any other law of the Territory, an offence is not committed by a licensee under the Liquor Ordinance 1975 by reason only that a gaming machine is installed in accordance with the proposed Ordinance on the licensed premises.

Paragraph 5(b) specifies that, notwithstanding any other law of the Territory, an offence is not committed by a person by reason only of the operation of a gaming machine on premises licensed under the Liquor Ordinance 1975.

Subsection 6(1) provides that the Secretary to the Department shall appoint a Registrar of Gaming Machines who is to be an employee within the meaning of the Public Service Act 1922.

Subsection 6(2) provides that the Registrar of Gaming Machines is to perform such duties as the Australian Capital Territory Gaming and Liquor Authority ("the Authority") from time to time directs, as well as the duties he or she is required to perform under the proposed Ordinance.

Subsection 7(1) provides for the appointment of such inspectors as the Secretary to the Department thinks necessary for the purposes of the proposed Ordinance.

Subsection 7(2) provides that an inspector is to perform such duties as the Authority or Registrar from time to time directs, as well as the duties required by an inspector under the proposed Ordinance.

Subsection 7(3) provides that an inspector is to be issued with a certificate signed by the Secretary certifying that the person is an inspector for the purposes of the proposed Ordinance.

Section 8 specifies that the Registrar is to keep a register of gaming machine licences in which particulars of the issue, renewal, variation, transfer, suspension or cancellation of licences are to be entered.

Subsection 9(1) allows the Authority to hold an inquiry to consider or deal with a matter under the proposed Ordinance.

Subsection 9(2) specifies that the Authority is to set a time and place for the inquiry.

Subsection 9(3) allows the Authority to adjourn an inquiry.

Subsection 9(4) provides that the Authority may determine the procedure at an inquiry.
Sub-section 9(5) provides that the Authority may, at an inquiry, take evidence on oath or affirmation and a member of the Authority may for that purpose administer an oath or affirmation.

Sub-section 9(6) specifies that the Authority is not bound by rules of evidence when conducting an inquiry.

Sub-section 9(7) gives the right to persons appearing before the Authority to be represented by a barrister and solicitor who may examine witnesses and address the Authority.

Section 10 empowers the senior member of the Authority or the Registrar to summon a person to give evidence at an inquiry and to produce such books or documents as are specified by the summons.

Sub-section 11(1) allows a member of the Authority to inspect any document produced at an inquiry and to make copies of any document relevant to the inquiry.

Sub-section 11(2) allows the Authority to retain possession of a document for as long as is necessary for the purposes of an inquiry, but the Authority must supply a certified copy of the document to the person entitled to it, and allow that person or a person authorised by that person to have access to the document to inspect and make copies of the document until the certified copy is supplied. The certified copy of the document shall be received in all courts in evidence as if it were the original.

Sub-section 11(3) defines "document" for the purposes of section 11 to include any book or other writing.

Sub-section 12(1) protects a member of the Authority from criminal or civil proceedings in respect of an act done in good faith in connection with an inquiry.

Sub-section 12(2) extends the immunity of a barrister and solicitor appearing in the Supreme Court to a barrister and solicitor appearing at an inquiry.

Sub-section 12(3) provides the same protection accorded to a witness in proceedings in the Supreme Court to a witness appearing at an inquiry.

Sub-section 13(1) makes it an offence for a person served with a summons, without reasonable excuse, to fail to attend the inquiry or to fail to produce a document. A penalty of $1,000 or imprisonment for 6 months or both is imposed.

Sub-section 13(2) makes it an offence for a witness at an inquiry, without reasonable excuse, to refuse or fail to be sworn or make an affirmation or refuse or fail to answer a relevant question required by a member to be answered. A penalty of $1,000 or imprisonment for 6 months, or both, is imposed.
Sub-section 13(3) provides that a statement or disclosure by a witness is not admissible in civil or criminal proceedings against the person, except in proceedings for giving false testimony at an inquiry.

Sub-section 14(1) specifies that a gaming machine licence may be applied for by a 'club', the holder of a General Licence under the Liquor Ordinance 1975 (a "General Licence") or the holder of an On Licence under the Liquor Ordinance 1975 (an "On Licence") in respect of the premises of the club, the General Licence or the On Licence, as the case may be.

Sub-section 14(2) specifies that an application for a gaming machine licence must:

a) be in writing and signed by an appropriate person;
b) be lodged with the Registrar;
c) state the name and address of the applicant if the applicant is a natural person, and each director where the applicant is a body corporate;
d) be accompanied by a plan of the relevant premises showing the area proposed for the installation of gaming machines;
e) specify the class, number and type of gaming machines sought;
f) be accompanied by a copy of the constitution and rules of the club where the applicant is a club, and the names and addresses of all members of the club.

Sub-section 15(1) specifies that, subject to sections 18, 19 and 20 of the proposed Ordinance, dealing with conditions attached to the issue of a licence, the Authority is to grant an application for a licence unless:

a) a requirement to produce information under sub-section 15(2) has not been met;
b) the requirements of section 14 have not been met;
c) the premises are not suitable for the installation and use of gaming machines;
d) the applicant, if a natural person, is under 18 years or is not of good fame and character;
e) any of the directors of an applicant body corporate is under 18 years or is not of good fame and character; or
f) the constitution and rules of an applicant club prohibit any gambling for money on the premises.

Sub-section 15(2) empowers the Authority to require an applicant to furnish further information relating to the application.

Sub-section 16(1) provides for the issue of a gaming machine licence by the Authority after an application has been granted and the determined fee has been paid by the applicant.

Sub-section 16(2) empowers the Authority to determine the number and type of gaming machines to be specified in a licence, notwithstanding the number and type applied for, having regard to matters relating to the size and layout of the premises, or the room in which it is proposed to install gaming machines, and to the number of members of the club where the applicant is a club, and any other relevant matters.

Sub-section 17(1) provides that the percentage pay-out of each machine to which a licence relates is to be determined by the Authority.

Sub-section 17(2) restricts the percentage pay-out determined by the Authority to the range of 80 to 90 per cent inclusive.

Sub-section 17(3) provides that the percentage pay-out of each machine is to be specified in the licence.

Sub-section 18(1) provides that a club may only be issued a gaming machine licence in respect of class B and class C gaming machines.

Paragraph 18(2)(a) provides that premises to which a General Licence applies that have at least 12 rooms for use as residential accommodation may only be issued with a gaming machine licence in respect of a maximum of 6 machines, being a maximum of 3 class A gaming machines and 3 class B gaming machines; but where the number of bar rooms on the premises is less than 3, then the maximum number of machines is the number that is twice the number of bar rooms.

Paragraph 18(2)(b) provides that premises to which a General Licence applies that have fewer than 12 rooms for use as residential accommodation may only be issued with a gaming machine licence in respect of class A gaming machines with a maximum of 2 machines.

Sub-section 18(3) provides that premises to which an On Licence applies may only be issued with a gaming machine licence in respect of class A gaming machines with a maximum of 2 machines.

Sub-section 19(1) provides that the Authority may only issue a gaming machine licence to a club if at a ballot of club members conducted on behalf of the Authority a majority of members who voted were in favour of having gaming machines on club premises.
Sub-section 19(2) specifies that the ballot referred to in sub-section 19(1) is to be conducted by the Registrar at the request of the Authority.

Sub-section 19(3) defines "member" for the purposes of section 19 as not including honorary members.

Sub-section 20(1) provides that a gaming machine licence may only be issued in respect of General Licence premises which have fewer than 12 rooms for use as residential accommodation if in the 12 months preceding the application at least 30,000 litres of liquor had been disposed of at the premises, or if there had been a disruption to trading due to unforeseen circumstances, 30,000 litres would have been disposed of but for the disruption.

Sub-section 20(2) provides that a gaming machine licence may only be issued in respect of On Licence premises if the premises have been the subject of an On Licence for a continuous period of at least 12 months preceding the application; if the nature and character or general use of the premises are not likely to be adversely affected by the installation and use of gaming machines; and if the premises are mainly used for the consumption of liquor. This last condition is designed so that only taverns may be able to obtain a gaming machine licence, as recommended in the Report and not, for example, restaurants.

Section 21 specifies that a holder of a gaming machine licence is authorised to install, and use on the premises during its opening hours, the class, number and type of gaming machines specified in the licence.

Sub-section 22(1) gives a right to a licensee to have approved a variation in his or her gaming licence to reduce the number or alter the type of gaming machines to which the licence relates.

Sub-section 22(2) allows the Authority to approve a variation of a gaming machine licence to increase the number of gaming machines specified, having regard to the size and layout of the premises or the number of members of the club, where the licensee is a club.

Sub-section 22(3) prohibits the Authority from approving a variation of a gaming machine licence where such a variation would increase the number of gaming machines beyond the maximum number of gaming machines in respect of which the licence could have been issued.

Sub-section 22(4) provides for the Authority to vary a licence and forward the varied licence to the licensee, after approval of a variation.
Sub-section 23(1) allows the Authority to approve the transfer of a gaming machine licence in respect of General Licence or On Licence premises to a person who is eligible for such a gaming machine licence.

Sub-section 23(2) specifies that an application for the transfer of a gaming machine licence must be in writing and signed by an appropriate person, must be lodged with the Registrar and must state the name and address of the applicant, or the directors if the applicant is a body corporate.

Sub-section 23(3) provides that the Authority cannot approve the transfer of a gaming machine licence that has been cancelled, that has ceased to be in force while a suspension is in force, or during the time that the licensee has been given an opportunity of showing cause why his or her licence should not be cancelled or suspended.

Sub-section 23(4) provides that the licensee must lodge with the Authority, after approval has been given for the transfer, the licence, the repair book kept under section 33 and the accounts kept under section 54 for the current month plus the accounts under section 54 for any other period that the Authority may require.

Sub-section 23(5) provides that after the Authority has received the licence, repair book and accounts, and any amounts due under section 57, it is to endorse on the licence a memorandum of the transfer and then deliver the licence, repair book and accounts to the transferee.

Sub-section 24(1) allows the Authority to suspend a licence for such period as it thinks fit; or cancel a licence, in the following circumstances:

(a) where the licence was obtained by fraud or misrepresentation;

(b) where any gaming machines on the premises were acquired, installed or used contrary to the proposed Ordinance;

(c) where the licensee has not complied with section 31 which deals with rules controlling the use of gaming machines;

(d) where the rules submitted under section 31 have not been approved by the Authority or the Authority is satisfied that no reasonable efforts had been made to enforce approved rules;

(e) where the licensee has not kept a repair book or has failed to enter particulars in the repair book as required by section 33;
(f) where the licensee is convicted of an offence against the proposed Ordinance; or

(g) where the premises to which the gaming machine licence relates has an On Licence and is no longer used mainly for the consumption of liquor.

Sub-section 24(2) requires the Authority to hold an inquiry and give the licensee an opportunity of showing cause why the licence should not be suspended or cancelled before it suspends or cancels a licence.

Sub-section 24(3) provides that during a suspension a licence is not to be taken to be in force.

Sub-section 25(1) provides for a gaming machine licence to cease to be in force automatically if the licence under the Liquor Ordinance 1975 in respect of the premises is not renewed.

Sub-section 25(2) provides that where the licence under the Liquor Ordinance 1975 in respect of the premises is suspended under that Ordinance, the gaming machine licence is also suspended for the same period.

Sub-section 25(3) provides that where the licence under the Liquor Ordinance 1975 in respect of the premises is cancelled under that Ordinance, then the gaming machine licence ceases to be in force.

Sub-section 25(4) provides that during a suspension a gaming machine licence is not to be taken to be in force.

Sub-section 26(1) provides for an application to be made to the Authority to cancel or not renew the club’s gaming machine licence after 12 months from installation of the gaming machines.

Sub-section 26(2) specifies that an application for cancellation or non-renewal of a club’s licence must be in writing, must be signed by at least 25 percent of the members and must be lodged with the Registrar.

Sub-section 26(3) imposes a duty on the Secretary of the relevant club to provide to the Authority on request a list of the names and addresses of all the members of the club at the date of the application. There is a penalty of $500 for failure to comply.

Sub-section 26(4) provides for a ballot to be conducted by the Registrar at the request of the Authority for the purposes of section 26.

Sub-section 26(5) specifies that the Authority is to cancel or not renew a club’s licence, as the case may be, if a majority of members vote in favour of the cancellation or non-renewal at a ballot conducted under sub-section 26(4).
Sub-section 26(6); for the purposes of section 26; excludes from the meaning of "members" any honorary members.

Section 27 provides that a gaming machine licence is to remain in force for 12 months but may be renewed.

Section 28 provides for the renewal of a gaming machine licence before the term of the licence expires, on payment of the determined fee, for a period of 12 months.

Section 29 provides that a copy of a licence may be issued by the Authority to the licensee where the licence has been lost or destroyed. It specifies that such a licence has the same force and effect as the original licence.

Section 30 makes it an offence not to display a gaming machine licence in a conspicuous position on the premises unless the licence has been forwarded to the Authority for the purposes of variation or transfer of the licence. A penalty of $500 is provided in the case of a natural person, and $2,500 for a body corporate.

Sub-section 31(1) provides that a licensee is to adopt rules for the control of gaming machines on the premises and forward a copy of the rules to the Authority within 30 days of the issue of the licence.

Sub-section 31(2) specifies that the Authority is to either approve the rules or refer them back to the licensee to be amended and resubmitted within a specified period.

Sub-section 31(3) requires a licensee to comply with a requirement made under sub-section 31(2).

Sub-section 32(1) requires a licensee to keep a register of the gaming machines installed on the premises.

Sub-section 32(2) requires entries in relation to each gaming machine to have a distinct number corresponding with a number displayed on the machine.

Sub-section 32(3) specifies that the particulars to be entered for each gaming machine are the number, type, class and percentage pay-out of the machines and any other particulars the Authority may require. The penalty for non-compliance with section 32 is $500 for a natural person and $2,000 for a body corporate.

Sub-section 33(1) requires that a licensee keep a repair book of gaming machines.

Sub-section 33(2) requires that a licensee enter in the repair book details of the times and reasons why a gaming machine was not in operation.
Sub-section 33(3) provides that particulars of all repairs and adjustments of a gaming machine are to be entered in the repair book - that is, the machine must be clearly identified; and the date of the repair or adjustment; particulars of the nature of the repair and any other particulars the Authority requires must be entered.

Sub-section 33(4) requires an entry in the repair book to be signed by the person who repaired or adjusted the machine.

Sub-section 34(1) provides for the Authority to issue a collection certificate in respect of licensed premises to a member of a club that is a licensee, a director of a body corporate that is a licensee, a person employed by a licensee or a person nominated by the licensee.

Sub-section 34(2) provides for the Authority to issue a repairer's certificate to a person who applies to the Authority and pays the determined fee.

Sub-section 34(3) specifies that a collection certificate and repairer's certificate remains in force for 12 months from the date of issue but can be renewed for further periods of 12 months each.

Sub-section 34(4) empowers the Authority to refuse to issue or to cancel a collection certificate or repairer's certificate if the person is convicted of an offence against the proposed Ordinance or is not, or ceases to be, a fit and proper person to hold the certificate.

Sub-section 34(5) allows the Authority to cancel a collection certificate if the holder is no longer eligible to be issued with a collection certificate (for example, if he or she is no longer a licensee or director of the relevant body corporate); or if the holder's nomination has been withdrawn by the licensee, in the case where the licensee nominated the holder under sub-section 34(1).

Sub-section 34(6) provides that the holder of a collection certificate or repairer's certificate that expires or is cancelled must surrender the certificate to the Authority within 7 days of expiry or receipt of notification of cancellation.

Sub-section 34(7) imposes a penalty on a person who fails to comply with sub-section 34(6) of a fine not exceeding $500.

Sub-section 35(1) prohibits a licensee from acquiring gaming machines except in accordance with the proposed Ordinance.

Sub-section 35(2) provides for the Authority to be given a written authorisation from a licensee to purchase the specified class, type and number of gaming machines for the licensee.
Sub-section 35(3) allows the Authority to vary an authorisation given to it under sub-section 35(2) in such manner as it thinks fit in respect of the class, type or number of gaming machines.

Sub-section 35(4) specifies that where the Authority varies an authorisation the authorisation is taken to have been given by the licensee in the varied form.

Sub-section 36(1) requires a licensee who has authorised the Authority to purchase gaming machines to deposit with the Authority a sum of money that the Authority determines is necessary to purchase the gaming machines and for any other incidental expenses and the Authority is to apply the money for these purposes.

Sub-section 36(2) provides that any money deposited with but not applied by the Authority for the purposes specified in sub-section 36(1) is to be refunded to the licensee.

Sub-section 37(1) specifies that the procedure to be followed for purchasing gaming machines is as prescribed, subject to sub-section 37(2).

Sub-section 37(2) provides that the Authority may only purchase a gaming machine if it has invited tenders from the public and the time for submission of tenders has expired.

Sub-section 37(3) provides that the Authority may only purchase gaming machines from a person authorised in a State or another Territory to sell gaming machines.

Sub-section 37(4) specifies that the Authority does not have to accept the lowest or any tender submitted to it.

Section 38 requires a gaming machine purchased by the Authority to be equipped with a sealed device which automatically records all actions and adjustments to the machine.

Section 39 allows a licensee to acquire gaming machines from another licensee, as long as the Authority has given approval and the Authority originally purchased the gaming machine.

Section 40 makes it an offence for a licensee to install gaming machines other than in accordance with the proposed Ordinance, and carries with it a penalty of $1,000 or imprisonment for 6 months or both for a natural person and $5,000 for a body corporate.

Sub-section 41(1) makes it an offence to install a gaming machine in a part of the premises not approved by the Authority and a penalty is provided of $500 for a natural person and $2,500 for a body corporate.
Sub-section 41(2) specifies the matters to be taken into account by the Authority in deciding whether to approve a part of premises for the installation of gaming machines. These matters are:

a) the materials used in surfacing the floor, walls and ceilings;
b) any noise-reducing steps taken;
c) the heating, cooling, ventilating and lighting;
d) any furnishings; and
e) toilet and washing facilities for persons using the gaming machines.

Section 42 makes it an offence for a licensee to create a nuisance in locating gaming machines and provides for a penalty of $500 for a natural person and $2,500 for a body corporate.

Section 43 prohibits a person who held a licence to permit a person to operate gaming machines during any period in which the licence is not in force, and provides for a penalty of $1,000 or imprisonment for 6 months or both for a natural person, and $5,000 for a body corporate.

Section 44 makes it an offence for a licensee to allow a gaming machine to be operated when the machine's percentage pay-out is other than the percentage pay-out determined by the Authority, except for repair or adjustment. A penalty is provided of $5,000 for a natural person and $25,000 for a body corporate.

Sub-section 45(1) prohibits a licensee from operating a linked jackpot arrangement and a penalty is provided of $5,000 or imprisonment for 2 years or both for a natural person and $25,000 for a body corporate.

Sub-section 45(2) allows a linked jackpot arrangement to be operated by a club if approval has been given by the Authority, in which case sub-section 45(1) does not apply to it.

Sub-section 45(3) defines "jackpot" and "linked jackpot arrangement" for the purpose of section 45.

Sub-section 46(1) makes it an offence for any one other than an authorised person to open a gaming machine, check money in and remove money from a machine or place money into the machine other than for the purpose of playing the machine. A penalty of $1,000 is provided.

Sub-section 46(2) prohibits anyone other than the holder of a repairer's certificate to repair or adjust a gaming machine. A penalty of $1,000 is provided.
Sub-section 46(3) specifies that an authorised person for the purposes of this section is a person who has a collection certificate issued under section 34, or a licensee who is a natural person or a person who has a repairer's certificate issued under section 34.

Sub-section 47(1) makes it an offence to do an act specified by the sub-section that interferes with or is calculated to interfere with the operation of a gaming machine, or with the percentage pay-out of the machine, by doing any act or inserting any object. A penalty is provided of $10,000 or imprisonment for 5 years or both and $50,000 for a body corporate.

Sub-section 47(2) specifies that a person does not commit an offence under sub-section 47(1) if the Act is done in good faith while repairing or adjusting a machine if the person has a repairer's certificate issued under section 34.

Section 48 makes it an offence for anyone other than an inspector to open the sealed device of a gaming machine referred to in section 38. A penalty is provided of $5,000 or 2 years imprisonment or both for a natural person and $25,000 for a body corporate.

Section 49 requires a licensee to clearly display on each gaming machine the percentage pay-out determined by the Authority. A penalty is provided of $500 for a natural person and $2,500 for a body corporate.

Section 50 provides for an inspector to seal the gaming machines on licensed premises so that they cannot be used, if requested to do so by the Authority in the following situations:

a) if a gaming machine licence expires, or the licence for the premises under the Liquor Ordinance 1975 expires, until the machines are removed;

b) if a gaming machine licence is suspended, for the period of suspension;

c) if a gaming machine licence is cancelled, until the machines are removed or the cancellation is set aside.

Sub-section 51(1) requires a person who held a gaming machine licence to remove any gaming machines on the premises, where applicable circumstances have occurred. A penalty is provided of $1,000 or imprisonment for 6 months or both and $5,000 for a body corporate.

Sub-section 51(2) specifies the applicable circumstances for the purposes of sub-section 51(1) as being:
a) where a gaming machine licence expires or ceases to be in force because the licence under the Liquor Ordinance 1975 relating to the premises is not renewed;

b) where a gaming machine licence is cancelled or ceases to be in force because the licence under the Liquor Ordinance 1975 relating to the premises is cancelled, and:

i) no appeal has been lodged against the relevant decision at the end of the appeal period;

ii) an appeal against the relevant decision has been lodged but has been determined other than by a decision of the Supreme Court; or

iii) an appeal against the relevant decision has been lodged and the Supreme Court has affirmed the decision.

Sub-section 51(3) defines "relevant decision" and "required period" for the purposes of section 51.

Sub-section 52(1) provides for the Authority to give reasons for a decision in respect of the following decisions of the Authority:

a) refusing to grant an application for a licence under section 15;

b) issuing a licence under section 16 but the number or type of gaming machines specified in the licence is different from the number or type applied for;

c) suspending or cancelling a licence under sections 24 or 26;

d) refusing to renew a licence under section 28;

e) refusing to issue a copy of a licence under section 29;

f) refusing to issue a collection certificate or repairer's certificate under sub-section 34(4);

g) refusing to renew a collection certificate or repairer's certificate under sub-section 34(3);

h) cancelling a collection certificate or repairer's certificate under sub-sections 34(4) or (5);

i) varying an authorisation under sub-section 35(3); or

j) refusing to give an approval to:

(i) the variation of a licence under sub-section 22(2);

(ii) the transfer of a licence under section 23;
(iii) the rules of a licensee under sub-section 31(2);
(iv) the acquisition of gaming machines from another licensee under section 39;
(v) the installation of gaming machines on a part of the premises under section 41;
(vi) the operation of a linked jackpot arrangement under section 45;
(vii) the extension of the period within which a licensee is to remove gaming machines under section 51; or
(viii) the appointment of an auditor under sub-section 56(1).

Sub-section 52(2) allows a person who receives the reasons for decision under sub-section 52(1) to appeal from that decision to the Supreme Court within 30 days of receipt of the reasons.

Sub-section 52(3) specifies that an appeal is to be by way of a re-hearing.

Sub-section 52(4) names the Authority as the respondent in an appeal.

Sub-section 52(5) specifies that the Supreme Court may affirm, set aside or vary the Authority's decision, give such judgement as the Court considers just, and make such orders as justice requires.

Section 53 provides that where the licence under the Liquor Ordinance 1975 relating to the premises had been cancelled, and the Supreme Court has set aside the cancellation, then the gaming machine licence relating to the premises automatically continues to be in force.

Section 54 imposes a duty on every licensee to keep full and separate accounts of each gaming machine on the premises in such a manner that they may be conveniently and properly audited, and the accounts must be correctly balanced at the end of each month. A penalty is provided of $10,000 or imprisonment for 5 years or both for a natural person and $50,000 for a body corporate.

Sub-section 55(1) makes it an offence for a licensee to destroy, alter, mutilate or falsify any document required to be kept by the proposed Ordinance or make a false entry or omit or alter an entry in such a document.

Sub-section 55(2) makes it an offence for any director, officer, clerk or servant of a club to acquire any property of the club with intent to defraud.
Section 55 provides a penalty for sub-sections 55(1) and (2) of $10,000 or imprisonment for 5 years or both for a natural person and $50,000 for a body corporate.

Sub-section 56(1) imposes a duty on a licensee to have the accounts relating to the operation of gaming machines audited by a person approved by the Authority and to have prepared an income and expenditure statement at the end of each financial year.

Sub-section 56(2) requires a licensee to lodge a certified copy of the income and expenditure statement within one month of its preparation, together with a report stating the class, number and type of gaming machines installed on the premises, and if the licensee is a club, the number of members and the way in which the profits were spent.

Sub-section 57(1) requires a licensee to set aside at the end of each month the prescribed percentage of the gross revenue derived from the operation of gaming machines and to pay that amount to the Authority before the fifteenth day of the following month.

Sub-section 57(2) provides that where a licence is transferred, the transferor must pay to the Authority within 15 days of the transfer the prescribed percentage of the gross revenue derived in the month of transfer up to the date of transfer.

Sub-section 57(3) provides for interest at the prescribed rate to be paid where the amounts referred to in sub-sections 57(1) and (2) are not paid in accordance with those sub-sections.

Sub-section 57(4) defines the terms "bonus prizes", "gross revenue", "jackpots" and "prescribed percentage" for the purposes of section 57 and in particular:

a) "gross revenue" is defined as being the total revenue from moneys inserted into gaming machines by persons using the machines after deducting the winnings taken from the machines by such persons and the amount of money paid by the licensee as winnings to such persons, excluding winnings in relation to linked jackpot arrangements.

b) "prescribed percentage" is defined as being for a club 10 percent or such other percentage as the Minister determines by notice in the Gazette, and for a licensee other than a club, 30 percent or such other percentage as the Minister determines by notice in the Gazette.

Section 57 provides a penalty for offences against sub-sections 57(1) and (2) of $5,000 for a natural person and $25,000 for a body corporate.
Section 58 provides that the money received by the Authority under section 57 from licensees, plus any interest received in respect of that money, is to be paid by the Authority to the Community Development Fund no later than the 15th day of the month following the month of receipt by the Authority.

Sub-section 59(1) provides that the gaming machine moneys of the Authority may only be applied by the Authority in paying the costs and expenses incurred in connection with carrying out its gaming machine functions and in paying such remuneration to members of the Authority and the Chief Executive of the Authority as is referable to the Authority's gaming machine functions.

Sub-section 59(2) defines "gaming machine moneys of the Authority" as being the sum of the income from fees for the issue or renewal of gaming machine licences and for copies of gaming machine licences, the issue of repairers' certificates, and any other income derived under the proposed Ordinance, except the moneys received by the Authority under sub-section 36(1) for the purchase of gaming machines.

Sub-section 60(1) allows for the entry onto licenced premises by an inspector, in the case of a club, at any time at which the premises are open to members of the club, and in the case of any other licensee, at any time at which the premises are open for the sale of liquor.

Sub-section 60(2) specifies that an inspector who has entered premises under sub-section 60(1) may inspect the premises, any gaming machines on the premises, the use of gaming machines on the premises and any documents, books or records relating to the gaming machines or the use of the gaming machines and may make copies of or take extracts from any of the documents, books or records.

Sub-section 60(3) provides that an inspector is only authorised to remain on premises entered under subsection 60(1) if he or she produces the certificate issued under sub-section 7(3) at the request of the person apparently in charge of the premises.

Section 61 makes it an offence, without reasonable excuse, to obstruct or hinder an inspector exercising his or her powers under the proposed Ordinance. A penalty is provided of $2,000 or imprisonment for 12 months or both for a natural person and $10,000 for a body corporate.

Sub-section 62(1) provides that where it is necessary to establish the state of mind of a body corporate, it is sufficient to show that a director, servant or agent acting within the scope of his or her actual or apparent authority had that state of mind.

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Sub-section 62(2) provides that conduct engaged in on behalf of a body corporate by a director, servant or agent acting within the scope of his or her actual or apparent authority or by any other person at the direction of such a person, if the giving of the direction is within the scope of the actual or apparent authority of the director, servant or agent is to be deemed to be conduct engaged in by the body corporate.

Sub-section 62(3) includes in the state of mind of a person the knowledge, intention, belief or purpose of the person and the person's reasons for his or her intention, opinion, belief or purpose.

Sub-section 63(1) allows an indictable offence against the proposed Ordinance to be heard and determined by a court of summary jurisdiction if the court is satisfied that it is proper to do so and both the defendant and prosecution consent to this course.

Sub-section 63(2) limits the penalty for an offence dealt with summarily under this section to a fine not exceeding $2,000 or imprisonment for 12 months or both.

Sub-section 64(1) provides for a certificate signed by the Registrar stating that a specified person was or was not on a specified date or dates or during a specified period the holder of a licence to be evidence of the matters so stated in proceedings for an offence against the proposed Ordinance.

Sub-section 64(2) specifies that a document purporting to have been signed by the Registrar is to be taken to have been signed by the Registrar unless the contrary is proved, for the purposes of sub-section 64(1).

Section 65 specifies that the senior member or the Registrar may sign a licence, certificate, notice, communication or other document on behalf of the Authority.

Section 66 empowers the Minister to determine fees for the purpose of the Ordinance by notice in writing published in the Gazette.

Section 67 provides that the Minister may make regulations not inconsistent with the proposed Ordinance prescribing matters which are required or permitted by the proposed Ordinance or which are necessary or convenient to be prescribed.

Section 68 deals with the interpretation of "commencement date", "continued licence" and "former Ordinance" for the purposes of the transitional provisions.

Section 69 provides that the Registrar appointed under the Poker Machine Control Ordinance 1975 is to be deemed to have been appointed Registrar under the proposed Ordinance.
Section 70 provides that an inspector appointed under the Poker Machine Control Ordinance 1975 is to be deemed to have been appointed an inspector under the proposed Ordinance.

Sub-section 71(1) continues in force the Poker Machine Licence of a club issued under the Poker Machine Control Ordinance 1975, deeming it to be a gaming machine licence issued under the proposed Ordinance.

Sub-section 71(2) provides that a licence deemed to be a gaming machine licence under sub-section 71(1) remains in force for the unexpired period for which the Poker Machine Licence was issued.

Sub-section 71(3) provides that a continued licence has effect as if it had been issued in respect of a number and type of class C gaming machine that is equal to the number and type of poker machine to which the Poker Machine Licence related and as if the percentage pay-out determined under the Poker Machine Control Ordinance 1975 for each gaming machine had been determined by the Authority under the proposed Ordinance and were specified in the continued licence.

Sub-section 72(1) provides that the rules of a club adopted and approved under the Poker Machine Control Ordinance 1975 relating to the use of poker machines are to be deemed to have been adopted by the club and approved by the Authority under the proposed Ordinance.

Sub-section 72(2) provides that rules deemed to have been adopted and approved under sub-section 72(1) are to have effect as if any reference in the rules to poker machines were a reference to gaming machines.

Sub-section 73(1) continues in force a collection certificate issued under the Poker Machine Control Ordinance 1975, deeming the holder to have been issued with a collection certificate under the proposed Ordinance.

Sub-section 73(2) continues in force a Repairman's Certificate issued under the Poker Machine Control Ordinance 1975, deeming the holder to have been issued with a repairer's certificate under the proposed Ordinance.

Sub-section 73(3) provides that a collection certificate or repairer's certificate deemed to have been issued under sub-sections 73(1) or (2) remains in force, subject to the proposed Ordinance, for the unexpired period for which the certificate was issued under the Poker Machine Control Ordinance 1975.

Section 74 provides that a fee determined by the Minister under the Poker Machine Control Ordinance 1975 continues to be the fee applicable as if it had been determined by the Minister under the proposed Ordinance.