

**2002**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**GAMBLING AND RACING CONTROL (CODE OF PRACTICE)  
REGULATIONS 2002 (NO 1)  
SL2002-28**

**EXPLANATORY MEMORANDUM**

Circulated by the authority of the Minister for  
Sport, Racing and Gaming

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# **Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)**

## **Outline and Policy Statement**

### **Background**

The *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)* are regulations made pursuant to section 18 of the *Gambling and Racing Control Act 1999*.

Section 18 of the *Gambling and Racing Control Act 1999* provides for one or more code or codes of practice to apply to specified classes of persons who are licensed or are authorised to do things under a gaming law. On the basis that there is significant common ground between licensed or authorised gambling providers only one code of practice has been developed.

Where there is not common ground on certain items, the code of practice provides for exemptions or specifies which licensee a particular regulation is applicable to. Gambling activities which have been identified by research as low risk to problem gamblers, such as lottery products, have less obligations under the code of practice than areas such the gaming machines which have been identified by research as being high risk to problem gamblers.

Section 18 of the *Gambling and Racing Control Act 1999* also provides guidelines about matters that may be included in a code of practice. All matters suggested in section 18 have been addressed in the code of practice.

The code of practice is designed to present gambling operators with a minimum set of standards that should be met in providing patrons access to their gambling products. The development of the code recognises that some people have difficulties in controlling their gambling behaviour. The provisions within the code provide a consistent approach that provides some protection for all patrons by ensuring that a minimum level of consumer information is available. It also ensures additional protection for those patrons who have difficulties in using gambling products in a controlled manner.

The code of practice should heighten gambling providers' awareness of the importance of providing adequate and accurate consumer information about gambling products as well as the likelihood that some people will not be able to control their gambling behaviour. The provision of information including how and where to obtain assistance is an integral part of the code.

The code of practice provides a number of harm minimisation measures that are designed to reduce the likelihood that persons will gamble excessively. This strategy is aimed at reducing the financial impact on problem gamblers and their dependants. It is also in the

public interest to promote consumer protection and reduce the risks and costs to the community and to individuals of problem gambling.

**Format of the *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)***

The *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)* provides for mandatory compliance by gambling licensees that are covered by the regulations.

The *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)* is divided into two areas – the first (identified as Parts 1-3) is the main part of the regulation and principally deals with enforcement of the code of practice. The second area is a Schedule to the regulations and contains the code of practice itself.

It was necessary to separate the two areas to clearly identify those provisions that carry offences for breaches and the actual code of practice. It was considered important that the code of practice was set out completely and separately to assist in its ease of use.

Information relating to the background of particular provisions of the code of practice is included in the Schedule with the code and is generally not repeated in the offence provisions in the regulations. It is considered more helpful to provide this information in the context of the full code of practice where all relevant provisions, and not just offence provisions, are contained.

**Application of *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)***

The application of the *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)* is set out in the meaning of “licensee” in the regulations and the code of practice and covers most gambling providers in the ACT. The smaller lotteries applications are exempt due to their small size, the fact that they are usually one-off in nature and that they have a minimal impact on the gambling community.

An offence under the regulations is only committed by the licensees identified in regulation 7 – namely ACTTAB Ltd or a non-exempt authorised person under the Lotteries or Pool Betting Acts. The offence provisions of the regulations do not cover the major gambling licensees of the casino, gaming machines, a race or sports bookmaker and interactive gambling. The respective authorising legislation for these licensees contains provisions dealing with disciplinary action that may be taken by the Gambling and Racing Commission should a licensee breach a provision of the code and therefore their enabling legislation.

## **Part 1 - Preliminary**

### **Regulation 1 - Name of Regulations**

Regulation 1 is a formal requirement and identifies the regulations as the *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)*.

### **Regulation 2 - Commencement**

The regulations and code of practice commence on 1 December 2002 except for:

- regulation 9 (Staff training);
- regulation 11(3) (Gambling facility to have gambling contact officer);
- regulation 19 (Exclusion procedures); and
- Schedule 1:
  - \* clause 4 (Staff care and training);
  - \* clause 17 (Exclusion procedures);
  - \* clause 25 (Availability of information); and
  - \* clause 26 (Clocks and lighting)

which will commence on 1 May 2003. The delayed commencement of regulations 9, 11(3) and 19 and clauses 4, 17, 25 and 26 of Schedule 1 is to allow sufficient time for gambling licensees to prepare for their introduction including the conduct of necessary training, preparation of written material and any necessary alterations to physical premises.

### **Regulation 3 - Dictionary**

Regulation 3 provides that the Dictionary of definitions at the end of the regulations is part of the regulations.

### **Regulation 4 - Notes**

Regulation 4 is a standard regulation and provides that notes included in the regulations are explanatory and are not part of the regulations.

### **Regulation 5 - Meaning of licensee**

“Licensee” of a gambling facility is defined to mean:

- (a) the holder of a licence under the *Gaming Machine Act 1987* (as defined in the Dictionary); or
- (b) a casino licensee under the *Casino Control Act 1988* (as defined in the Dictionary); or
- (c) a licensed provider under the *Interactive Gambling Act 1998*; or

- (d) the holder of a race or sports bookmaking licence or an agents licence under the *Race and Sports Bookmaking Act 2001*; or
- (e) ACTTAB Ltd; or
- (f) Anyone authorised to conduct a lottery under the *Lotteries Act 1964* or *Pool Betting Act 1964* other than:
  - (i) a calcutta sweepstake; or
  - (ii) a trade promotion which involves an element of chance in the allocation of a prize; or
  - (iii) a raffle; or
  - (iv) a progressive lottery or silver circle; or
  - (v) a private lottery.

## **Part 2 – Code of Practice**

### **Division 2.1 – General**

#### **Regulation 6 – Code of Practice**

Regulation 6 provides that the code of practice applies to a licensee (licensee is defined by regulation 5).

#### **Regulation 7 – Offences under Part 2**

Regulation 7 provides for the application of the offence provisions contained within the regulations. The offence provisions are applicable to:

- (a) ACTTAB Ltd; or
- (b) anyone authorised to conduct a lottery under the *Lotteries Act 1964* or *Pool Betting Act 1964* other than:
  - (i) a calcutta sweepstake; or
  - (ii) a trade promotion which involves an element of chance in the allocation of a prize; or
  - (iii) a raffle; or
  - (iv) a progressive lottery or silver circle; or
  - (v) a private lottery.

These provisions do not include:

- (i) the holder of a licence under the *Gaming Machine Act 1987*; or
- (ii) casino licensee under the *Casino Control Act 1988*; or
- (iii) a licensed provider under the *Interactive Gambling Act 1998*; or
- (iv) the holder of a race or sports bookmaking licence or an agents licence under the *Race and Sports Bookmaking Act 2001*.

The basis for not including the above licensees is that disciplinary provisions in their respective legislation already cover them. These disciplinary provisions allow the ACT Gambling and Racing Commission to take action against the licensee for breaches of the relevant Act, ranging from a censure to the imposition of a monetary penalty to suspension or cancellation of their licence. A provision has been included in these Acts that requires the licensees to comply with any code of practice. A breach of the *Gambling and Racing Control (Code of Practice) Regulations 2002 (No 1)* is therefore a breach of these Acts.

The offence provisions are included in the regulations to cover those gambling providers (or licensees as defined under the code) where their specific legislation does not include disciplinary provisions.

## **Division 2.2 – Conduct of Gambling**

### **Regulation 8 – Licensees’ obligations generally**

Sub-regulation (1) provides that a licensee commits an offence if the licensee contravenes clause 3(2) of the code of practice. Clause 3(2) requires the licensee to give or make available to patrons information about gambling or gambling facilities that is not false or misleading.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) applies only to a casino licensee and a gaming machine licensee and provides that an offence is committed if the licensee contravenes clause 3(3) of the code of practice. Clause 3(3) provides that a person (called “the gambler”) should not be permitted to use the facility for gambling if the gambler:

- (a) appears to not understand fully the nature or consequences of gambling generally, or in particular gambling activity and the potential for financial loss; or
- (b) appears to be intoxicated or under the influence of a drug to an extent that the gambler could not reasonably be expected to exercise rational judgement while gambling.

The maximum penalty for a breach of this sub-regulation is 10 penalty units.

Sub-regulation (2) only applies to a casino licensee and a gaming machine licensee since these gambling products provide higher risks to problem gamblers and they usually involve gamblers being present at the gambling facility for longer periods of time compared to other forms of gambling. In addition, they are usually associated with the sale of alcohol at the gambling facility which increases the likelihood of an intoxicated person participating in that gambling activity. Other gambling outlets, such as lotteries and TAB, are often associated with short

transaction times and it would be very difficult for a licensee or their staff to form a view as required under this sub-regulation.

Sub-regulation (3) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 9 - Staff training**

Regulation 9 provides that the Commission may approve a training program about providing gambling services as required under these regulations.

This regulation commences on 1 May 2003 to allow gambling licensees sufficient time for relevant staff to undertake the necessary training as required.

## **Division 2.3 – Problem Gambling**

### **Regulation 10 - Recording problem gambling incidents**

Sub-regulation (1) provides that the licensee commits an offence if, when asked by the Commission, the licensee fails to make a record of any problem gambling incidents kept under the code of practice available for inspection by the Commission.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 11 - Gambling facility to have gambling contact officer**

Sub-regulation (1) provides that the licensee commits an offence if the licensee contravenes clause 9 of the code of practice. The licensee must appoint at least 1 gambling contact officer for the facility. The functions and responsibilities of the gambling contact officer are outlined in clause 10 of the code of practice.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides that a gambling contact officer for a facility may be the licensee or a person appointed by the licensee. This allows small gambling providers that are often operated by one or two persons to have the same person (ie the licensee or their nominee) to perform the functions of the gambling contact officer. The gambling contact officer does not have to work at the premises or be present at the premises but must still fulfil the requirements under these regulations.

Sub-regulation (3) provides that a person is not eligible to be appointed as a gambling contact officer unless the person has successfully completed an approved training program. An *approved training program* is approved by the Commission under regulation 9.

This regulation commences on 1 May 2003 to allow gambling licensees sufficient time for relevant staff to undertake the necessary training as required.

Sub-regulation (4) provides that the licensee of a gambling facility must, as soon as practicable, give the Commission particulars of the name and address of each gambling contact officer for the facility and any changes to those particulars.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (5) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 12 – Dealing with people with gambling problem**

Sub-regulation (1) provides that the gambling contact officer commits an offence if the officer contravenes clause 11(2) or (3) of the code of practice.

The officer must keep a register of:

- (a) the name or a description of a person about whom the officer has been told under clause 11(1) (Dealing with people with gambling problem) under the code of practice;
- (b) details given to the officer under that clause;
- (c) the name or a description of a person (other than a person mentioned in sub-clause (1)(a)) whom the officer has reasonable grounds for believing has a gambling problem; and
- (d) details of the person's behaviour resulting in the officer's belief.

Clause 11(3) of the Code provides that the gambling contact officer must take reasonable steps to discuss with the people mentioned in clause 11(2)(a) and (c) to discuss the possible gambling problem with them and to provide advice and information about gambling counselling services and any other appropriate action. The information provided should include advice about the facility's deed of exclusion.

The maximum penalty for a breach of this regulation is 5 penalty units.

Clause 2 of the code of practice provides a definition of *gambling problem* and sets out some examples that may indicate such a problem.



Sub-regulation 12(2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

## **Division 2.4 - Exclusion from gambling**

### **Regulation 13 – Application of division 2.4**

Division 2.4 does not apply to the providers of lottery products as lottery products represent a low risk to problem gamblers. Lottery products are usually sold in a retail environment with many other goods (such as newspapers, magazines, confectionery and cigarettes) where it would be very difficult to apply exclusion provisions in a discrete and safe manner. In addition, there are many outlets available at which these products are sold thus providing easy alternatives to gamblers.

The providers of lottery products instead of excluding people from purchasing their product must provide information about gambling counselling services if a person makes any enquiries about problem gambling.

Regulation 13 provides that Division 2.4, other than regulation 15(1) (Exclusion of people at risk or excluded under deed), regulation 21 (Accounts of certain excluded people) and regulation 22 (Promotional material not to be sent to certain excluded people), does not apply to the holder of a casino licence under the *Casino Control Act 1988* or a licensed provider under the *Interactive Gambling Act 1998*. The reason that most of this Division does not apply to these two Acts is that they already contain provisions that relate to the exclusion of persons from these gambling activities. Regulations 15(1), 21 and 22 still apply as they are not covered by these Acts and it is considered important that they apply to casino and interactive gambling licensees.

### **Regulation 14 – Deeds of exclusion**

Sub-regulation (1) provides that a licensee commits an offence if clause 13(1) of the code of practice is breached. A licensee, when asked by a person claiming to have a gambling problem, must sign a deed of exclusion with that person. This clause in the code of practice makes it compulsory for a gambling provider to exclude a person where the person wishes to no longer attend that gambling venue.

This regulation ensures that a formal deed is made between the parties outlining that the licensee undertakes to exclude the person from the premises.

The maximum penalty for a breach of this sub-regulation is 10 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 15 – Exclusion of people at risk or excluded under deed**

While clause 13 of the code of practice provides for a person to apply to a licensee to exclude himself or herself from a gambling venue, many problem gamblers will not make this voluntary step. It is therefore necessary to provide a mechanism where if a problem gambler is identified then the licensee must exclude that person to protect that person and their dependants from financial hardship due to their gambling problem.

Sub-regulation 15(1) provides that the licensee of a gambling facility commits an offence if the licensee contravenes clause 14 of the code of practice. The licensee must exclude a person from gambling at the facility if the licensee believes on reasonable grounds that the welfare of the person, or the welfare of the person's dependants, is seriously at risk because of the person's gambling problem.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides that the licensee must not use more force, or subject someone to greater indignity, than is necessary and reasonable to exclude the person from gambling at the facility. This provision is essential to make sure that the exclusion of the person is effective while protecting the rights of the excluded person.

Sub-regulation (3) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 16 – Commission's review of exclusion decision**

Regulation 16 provides for a person who is aggrieved by a decision under clause 14(1) of the code of practice (Exclusion of people at risk or excluded under deed) may apply in writing to the Commission for a review of that decision.

Sub-regulation (2) provides that in reviewing a decision to exclude a person, the Commission must invite the licensee to provide a written submission concerning the exclusion and the Commission must have regard to the submission's content. The licensee has two weeks after receiving the request from the Commission to respond.

This sub-regulation ensures that all circumstances surrounding the exclusion are provided to the Commission and that the licensee's reasons for excluding the person are considered as part of the review of that decision.

Sub-regulation (3) provides that the Commission, having had regard to the licensee's report and the matters outlined in clause 15 of the code of practice (Matters to which licensee to have regard when deciding whether to exclude), may by written notice confirm, revoke or amend the licensee's decision.

Sub-regulation (4) provides that a notice issued under sub-regulation (3) must be in accordance with the requirements of the code of practice in force under section 25B (1) of the *Administrative Appeals Tribunal Act 1989*. This will ensure that the Commission's decision is made in the context of appropriate procedural fairness as outlined in the AAT code of practice.

### **Regulation 17 – Review of Commission's decision under regulation 16**

Regulation 17 provides that the Commission's decision under sub-regulation 16(3) to revoke or amend the licensee's exclusion decision is subject to review by the Administrative Appeals Tribunal. This ensures that an aggrieved person has access to formal appeal provisions should they disagree with the decision to exclude them from a gaming venue.

### **Regulation 18 – Compliance with decision to revoke or amend**

In relation to the Commission's decision under sub-regulation 16(3) to revoke or amend a licensee's decision, regulation 18 provides that the Commission may give directions to the licensee to give effect to the Commission's decision.

Sub-regulation (2) provides that the licensee commits an offence if the licensee fails to comply with the direction of the Commission. This ensures that the Commission's direction is followed by the licensee.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (3) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 19 – Exclusion procedures**

Sub-regulation (1) provides that the licensee of a gambling facility commits an offence if the licensee contravenes clause 17(1) of the code of practice. The licensee must prepare written procedures for dealing with people to be excluded from gambling at the facility.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides that the Commission may give written directions to the licensee of a gambling facility under clause 17(1) of the code of practice about the kind of procedures for dealing with people to be excluded from gambling at the

facility. This provision is included to ensure that the procedures that the licensee develops are adequate.

Also included in sub-regulation (2) is a provision that the Commission may give written directions about the procedures to a licensee, a staff member and anyone else involved in the exclusion of a person from the facility under these regulations, to ensure compliance with the procedures. This provision is included to ensure that the Commission has the power to provide any guidance or direction on the interpretation of exclusion procedures to ensure that the intention of the provisions is upheld and patrons' interests are protected.

Sub-regulation (3) provides that a person commits an offence under these regulations if they fail to comply with a direction of the Commission given clause 17 of the code of practice.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (4) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

## **Regulation 20 – Register of excluded people**

Sub-regulation (1) provides that the licensee of a gambling facility commits an offence if the licensee contravenes clause 18 of the code of practice. The licensee must keep a register of excluded persons of the facility under Division 1.2.3 of the code of practice.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides a list of particulars that must be included in the register. These include:

- (a) the name and address of each person excluded from gambling at the facility;
- (b) the name of the licensee and each staff member involved in the exclusion;
- (c) the circumstances that resulted in the person being excluded;
- (d) any report or other relevant information about the excluded person; and
- (e) the period of exclusion.

These provisions are required to ensure adequate records are kept to enable identification of the excluded person, whether the exclusion was appropriate in the circumstances and for any follow up action that may be required.

Sub-regulation (3) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 21 – Accounts of certain excluded people**

Sub-regulation (1) provides that a licensee commits an offence if the licensee contravenes clause 19 of the code of practice. In relation to a person excluded by the Commission or police commissioner under the *Casino Control Act 1988*, section 70A (1) (Notification of exclusion by commissioner of police or commission), the casino licensee must not allow anyone to use the excluded person's account. The *Casino Control Act 1988* reference has been included to make sure "self exclusion" persons (ie. persons who have applied to the Commission for exclusion due to problem gambling issues) do not have their accounts accessed whilst they are excluded. It also provides that the licensee of a gambling facility (other than the casino licensee or a lottery provider) must not allow anyone to use an account owned by a person excluded from that gambling facility under these regulations (ie for a problem gambling related issue).

This clause in the code of practice protects a person's funds and ensures that the excluded person does not continue to gamble after having been excluded by instructing someone else to place bets or wagers.

The maximum penalty for a breach of this sub-regulation is 10 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

### **Regulation 22 – Promotional material not to be sent to certain excluded people**

A licensee commits an offence if the licensee contravenes clause 20 of the code of practice. A person excluded from the casino by the Commission or police commissioner under the *Casino Control Act 1988*, section 70A (1) (Notification of exclusion by commissioner of police or commission) must not be sent promotional material. The *Casino Control Act 1988* reference has been included to make sure "self exclusion" persons (ie. persons who have usually applied to the Commission for exclusion due to problem gambling issues) do not receive promotional material whilst they are excluded. In addition, a gambling licensee commits an offence if the licensee (other than the casino licensee or a lottery provider) sends information or promotional material about gambling activities at the facility to a person excluded from that gambling facility under this regulation.

This regulation ensures that a person excluded for problem gambling does not receive tempting promotional material to entice the person to gamble or to breach their exclusion notice or deed.

The maximum penalty for a breach of this sub-regulation is 10 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

## **Division 2.5 – Financial controls and gambling environment**

### **Regulation 23 – Other cash payment limits**

This regulation covers cash payout limits in relation to licensees other than a casino licensee which are covered by clause 22 of the code of practice. The different style of gambling product requires a different approach to be taken to these licensees.

Sub-regulation (1) provides that this regulation applies to all licensees other than a casino licensee. It provides that an offence is committed if the licensee contravenes clause 23 of the code of practice. A licensee must not pay the amount of winnings in cash to a gambling patron for a particular event or contingency (on which a gambling patron has staked or risked money), that is more than the maximum amount outlined in the table included in clause 23 of the code of practice.

The different cash payout limits are provided to reflect the different levels of winnings or payouts generally available with the different types of gambling. A bookmaker or ACTTAB may provide up to \$20,000 in cash winnings on any one event while a lottery provider may pay out up to \$4,000 and a gaming machine licensee or housie or Keno provider may provide up to \$1,000 in cash for any one prize, draw or game.

Winnings over and above the cash payout limits specified in clause 23 of the code of practice may be paid by other non-cash means such as cheque or electronic funds transfer. An example is provided in the code of practice of cash and non-cash payments.

The maximum penalty for a breach of this sub-regulation is 10 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

## **Regulation 24 - Directions about information, clocks and lighting**

Sub-regulation (1) provides that the licensee commits an offence if the licensee contravenes clause 27(2) of the code of practice. The Commission may give written directions to a licensee of a gambling facility about information (including signs), clocks and lighting under clause 27 of the code of practice. This clause ensures that the intention of the code of practice in relation to the adequate provision of information, the provision of sufficiently visible clocks and an adequate level of lighting is met.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

## **Division 2.6 – Advertising, promotions and inducements**

### **Regulation 25 – Directions about advertising, promotions and inducements**

Sub-regulation (1) provides that the licensee commits an offence if the licensee contravenes clause 31(2) of the code of practice. The Commission may give written directions to a licensee of a gambling facility about advertising, promotions and inducements under clause 31 of the code of practice. This regulation ensures that the intention of the code of practice in relation to the proper conduct of advertising and proper standards for promotions and inducements are met.

The maximum penalty for a breach of this sub-regulation is 5 penalty units.

Sub-regulation (2) provides that an offence under this regulation is an offence of strict liability. Regulation 26 provides that the defence of reasonable excuse is available under this regulation.

## **Part 3 – Miscellaneous**

### **Regulation 26 – Reasonable excuse available as defence**

Regulation 26 provides that the defence of reasonable excuse is available for each offence under these regulations. The *Criminal Code 2001* provides that for an offence of strict liability there are no fault elements for any of the physical elements and the defence of mistake of fact (section 20 of the Criminal Code) is available.

As outlined in the Criminal Code, the existence of strict liability does not preclude the application of any other defence.

## **Schedule 1 – Code of Practice**

### **Part 1.1 – Key concepts**

#### **Clause 1 – Meaning of *licensee***

“Licensee” of a gambling facility is defined to mean:

- (a) the holder of a licence under the *Gaming Machine Act 1987* (as defined in the Dictionary); or
- (b) a casino licensee under the *Casino Control Act 1988* (as defined in the Dictionary); or
- (c) a licensed provider under the *Interactive Gambling Act 1998*; or
- (d) the holder of a race or sports bookmaking licence or an agents licence under the *Race and Sports Bookmaking Act 2001*; or
- (e) ACTTAB Ltd; or
- (f) Anyone authorised to conduct a lottery under the *Lotteries Act 1964* or *Pool Betting Act 1964* other than:
  - (i) a calcutta sweepstake; or
  - (ii) a trade promotion which involves an element of chance in the allocation of a prize; or
  - (iii) a raffle; or
  - (iv) a progressive lottery or silver circle; or
  - (v) a private lottery.

#### **Clause 2 – Meaning of *gambling problem***

The gambling code of practice is centred on minimising the harm caused by problem gambling. A “gambling problem” can mean very different things for different people. It cannot be defined by set or exact amounts of money gambled or how much time is spent gambling. Some people can afford to lose large sums of money while others are seriously affected by the loss of small amounts of money.

Any definition of “gambling problem” must be able to deal with such a variety of situations but remain meaningful.

Sub-clause (1) provides that a person who cannot manage properly their gambling activities is taken to have a gambling problem. A number of examples have been included of some possible signs that a person may be considered to have a gambling problem. These include admitting to being unable to stop gambling or to gamble within their means, expressing concern about the amount of time or money spent on gambling, spending money on gambling instead of living expenses and



having a disagreement with a family or friend over the person's gambling behaviour.

Sub-clause (2) provides that a person is also taken to have a gambling problem if the person engages in any of the following behaviours:

- (a) seeking credit for gambling unless authorised under a gaming law to do so;
- (b) seeking to borrow or scavenge for money to gamble;
- (c) seeking assistance or advice about controlling the person's gambling; or
- (d) admitting to borrowing or stealing money to gamble.

## **Part 1.2 – Conduct of gambling**

### **Division 1.2.1 – General**

#### **Clause 3 – Licensees obligations generally**

Clause 3 provides some basic honesty requirements on a licensee to ensure that patrons are properly and accurately informed about gambling. It is essential that patrons be provided with correct information to enable them to make their decisions about gambling.

Sub-clauses (1) and (2) provide that a licensee of a gambling facility must conduct the facility honestly, responsibly and in accordance with the regulations and this code of practice. The licensee must not give or make available to patrons information about gambling or gambling facilities that is false or misleading.

Sub-clause (3) applies only to a casino licensee and a gaming machine licensee and provides that these licensees must not allow a person (called "the gambler") to use the facility for gambling if the gambler:

- (a) appears to not understand fully the nature or consequences of gambling generally, or in particular gambling activity and the potential for financial loss; or
- (b) appears to be intoxicated or under the influence of a drug to an extent that the gambler could not reasonably be expected to exercise rational judgement while gambling.

Sub-clause (3) only applies to a casino licensee and a gaming machine licensee since these gambling products provide higher risks to problem gamblers and they usually involve gamblers being present at the gambling facility for longer periods of time compared to other forms of gambling. In addition, they are usually

associated with the sale of alcohol at the gambling facility which increases the likelihood of an intoxicated person participating in that gambling activity. Other gambling outlets, such as lotteries and TAB, are often associated with short transaction times and it may be difficult for a licensee or their staff to form a view as required under this sub-regulation.

These provisions ensure the protection of the gambler if the gambler does not understand the gambling activity contemplated and the potential to suffer financial loss or the gambler is in such a state that they are incapable of making rational judgements while gambling.

#### **Clause 4 – Staff care and training**

Clause 4 provides minimum standards for staff awareness of problem gambling issues by requiring staff to undertake appropriate training. This clause also ensures that there is no conflict of interest with gambling staff by preventing them from participating in gambling while on duty at the venue.

Sub-clause (1)(a) provides for each staff member directly involved in providing or supervising gambling services to successfully complete an approved training program. An *approved training program* is defined in the Dictionary as a training program about problem gambling approved by the Commission. A person required to undergo training must be *directly* involved in the provision of gambling products and does not include staff employed by a licensee or their agent that may be incidentally involved, such as providing administrative assistance or accounting work.

This sub-clause also provides that a staff member directly involved in providing or supervising gambling services does not participate in, or allow anyone else to participate on their behalf, in a gambling activity except in the course of the member's duty while they are on duty (see sub-clause (4)).

Sub-clause (1)(b) requires the licensee to ensure that each staff member is made aware of his or her obligations under the regulations or this code of practice.

Sub-clause (2) provides that in relation to ACTTAB and a lottery provider (as defined in the regulations) they need only ensure that the person in charge of each gambling facility has to successfully completed the approved training.

Sub-clause (2)(b) provides that the restriction on these licensees' obligations to the person in charge of a gambling facility also applies to ensuring that the person in charge does not participate in, or allow anyone else to participate on their behalf, in a gambling activity except in the course of the member's duty while they are on duty (see sub-clause (4)).

Sub-clause (2)(c) provides that the licensee must make the person in charge aware of his or her obligations under the regulations or this code of practice.

Sub-clause (3) provides that in relation to ACTTAB and a lottery provider (as defined in the regulations) the person in charge mentioned in sub-clause (2) must ensure that each staff member directly involved in the provision of gambling services (or the supervision of those people) at the facility has successfully completed the approved training.

This sub-clause also provides that a person in charge of the facility must ensure that each staff member directly involved in providing or supervising gambling services does not participate in, or allow anyone else to participate on their behalf, in a gambling activity except in the course of the member's duty while they are on duty (see sub-clause (4)).

Sub-clause (3)(b) provides that the person in charge of a gambling facility must make each staff member aware of his or her obligations under the regulations or this code of practice.

ACTTAB and a lottery provider are treated a little differently than other licensees as the code of practice recognises the use of agents or accredited representatives (the person in charge of a facility) to undertake the sale of their gambling product. The licensee has limited practical control over the activities of staff working for an agency and this split in responsibility is reflected in the different obligations placed on the licensee and the person in charge of the facility.

Sub-clause (4) provides that the training requirements specified in sub-clauses (1)(a)(i), (2)(a) and (3)(a)(i) are subject to clause 5 of the code of practice which allows for an exemption to the training requirements. See clause 5 for details.

Sub-clause (5) provides that the restrictions on the participation in gambling by the person in charge or a staff member only applies when that person is on duty. Any further restriction is considered to be too much of an impost into a person's private life.

## **Clause 5 – Exemptions in relation to approved training courses**

Clause 5 provides that the Commission may exempt the licensee or the person in charge of the facility from complying with the training requirements of clause 4(1)(a)(i), 2(a) or (3)(a)(i). The Commission may state a certain time period for an exemption or may state that certain circumstances must be complied with.

Clause 5 allows for staff to commence duty, with written approval from the Commission, without having to wait for the required training to be undertaken. In addition, persons that have already undertaken compatible training can be given recognition for all or part of a previous course. This exemption allows particularly smaller organisations with small staff numbers to quickly employ persons as required.

## **Division 1.2.2 – Problem gambling**

### **Clause 6 – Recording problem gambling incidents**

Clause 6 provides for record keeping of problem gambling incidents to ensure that proper details of incidents are recorded so that any follow up action or future enquiries have a consistent and adequate source of data.

Sub-clause (1)(a) provides that the licensee of a gambling facility must keep a record of any person in the gaming area of the facility who shows signs of having a gambling problem or is excluded under a deed (clause 13) or under clause 14 (Exclusion of people at risk or excluded under deed). *Gaming area* is defined in the Dictionary at the end of the code. Sub-clause (1)(b) provides that the licensee must also record any relevant action taken by the licensee in relation to the person.

Sub-regulation (2) requires that the records being kept must cover:

- (a) the date and nature of the incident;
- (b) the name and address if they are known, or a description of the person, in relation to whom any action was taken; and
- (c) the action taken and by whom.

### **Clause 7 - Gambling beyond means**

Clause 7 provides that the licensee of a gambling facility must not encourage people to gamble beyond their means. This clause provides the licensee with a requirement to ensure that they take responsibility for not targeting persons who may be susceptible to excessive gambling.

### **Clause 8 - Help in relation to gambling problems**

The licensee of a gambling facility must ensure that where a person asks the licensee, the person in charge of the venue or a staff member for assistance in relation to a gambling problem, the person is helped to make use of the services and information made available under the regulations or this code of practice. This clause ensures that the licensee or their representative or agent provide adequate assistance with information to a person who seeks help in relation to problem gambling. It is an important method of preventing or restricting the impact of problem gambling by ensuring that adequate information is available.

### **Clause 9 - Gambling contact officers**

A gambling contact officer is the key point of contact at a gambling facility for gambling related issues. The gambling contact officer is the main source of assistance to patrons in relation to information about problem gambling and the services offered to assist someone who may have difficulties with their gambling. A gambling contact officer is trained to deal with problem gambling issues and is therefore the best person at a gambling facility to deal with these issues.

This clause requires a licensee of a gambling facility to ensure that at least one gambling contact officer is appointed for that facility. Gambling cannot be conducted at the facility unless this requirement has been met.

Regulation 11 outlines details of the requirements of gambling contact officers including the necessity to attend an approved training program.

### **Clause 10 - Gambling contact officers functions**

The specific functions or responsibilities of a gambling contact officer are outlined in this clause to ensure that the minimum requirements are covered and that all gambling facilities offer a consistent approach to dealing with problem gamblers. Clause 11 (Dealing with people with gambling problem) also covers the functions of a gambling contact officer.

Sub-clause (1) provides that a gambling contact officer for a gambling facility has the following functions:

- (a) to provide people about whom the reports are made under clause 10 help to obtain information and counselling about problem gambling;
- (b) if a complaint is made about problem gambling at the facility, to:
  - (i) record details of the complaint and any action taken;
  - (ii) notify the complainant of any action taken or that no action was taken and the reasons why; and
  - (iii) advise the complainant that a further complaint can be lodged with the Commission;
- (c) to report to the licensee about any complaints made to the officer about problem gambling at the facility;
- (d) to arrange for the particulars of excluded people to be entered into the register under clause 18 (Register of excluded people); and
- (e) to ensure, as far as possible, that there is no unauthorised or inappropriate disclosure of personal information obtained or kept under this code of practice. This is to ensure that the person responsible for keeping records and holding personal information makes certain that the privacy of such personal information is appropriately guarded.

Sub-clause (2) provides that the gambling contact officer has any other function given to the officer under the regulations or this code of practice. This ensures that this clause does not limit any other provision contained in the regulations or the code of practice.

Section 31 of the *Gambling and Racing Control Act 1999* provides that the Commission must investigate a legitimate complaint about a gaming law lodged by a person and report back to that person with the results of any investigation into that complaint.

If a complaint was to be made against the gambling contact officer (who could also be the facility's licensee) then it would be appropriate to lodge such a complaint with the Commission.

### **Clause 11 – Dealing with people with gambling problem**

Clause 11 ensures that gambling contact officers deal with problem gamblers in a consistent manner by setting minimum standards that must be followed.

Sub-clause (1) provides that the licensee of a gambling facility must ensure that the gambling contact officer is told if the licensee or a staff member believes on reasonable grounds that a person using the facility has a gambling problem. The term *gambling problem* is defined in the Dictionary at the end of the code of practice. The particulars of a person's behaviour resulting in that belief must also be told to the gambling contact officer.

Sub-clause (2) provides that the gambling contact officer must keep a register of the name or a description of the person about whom the officer was told under sub-clause (1) was believed to have a gambling problem. The details provided to the officer, such as the nature of the perceived problem and particulars of the related behaviour, must also be recorded.

Sub-clause (3) provides that the gambling contact officer must take reasonable steps to discuss the gambling problem with the person as soon as possible. The person must be given advice or information about counselling and advisory services that are available from appropriate support agencies. The gambling contact officer must also take any other action that is considered appropriate such as entering into a deed of exclusion under clause 13 of this code of practice.

### **Division 1.2.3 - Exclusion from gambling generally**

#### **Clause 12 – Application of division 1.2.3**

This clause provides that Division 1.2.3 does not apply to lottery providers or in general terms the holder of a casino licence under the *Casino Control Act 1988* or a licensed provider under the *Interactive Gambling Act 1998*. The reason for this exemption is that lottery providers operate in a retail environment and in relation to

casino and interactive licensees the relevant governing legislation already contains provisions that relate to the exclusion of persons from these gambling activities.

Sub-clause (1) provisions that this division does not apply to the provider of lottery products (as defined in the regulations) as lottery products represent a low risk to problem gamblers. Lottery products are usually sold in a retail environment with many other goods (such as newspapers, magazines, confectionery and cigarettes) where it would be very difficult to apply exclusion provisions in a discrete and safe manner. There are many lottery outlets available at which these products are sold thus providing easy alternatives to gamblers.

The providers of lottery products instead of excluding people from purchasing their product must provide information about gambling counselling services if a person makes any enquiries about problem gambling (see clause 8).

Sub-clause (2) provides that this division does not apply to a casino licensee or a licensed provider under the *Interactive Gambling Act 1998* except for the application of clauses 14(1) (Exclusion of people at risk or excluded under a deed), clause 19 (Accounts of certain excluded people) and clause 20 (Promotional material not to be sent to certain excluded people). The Acts for these two licensees cover exclusions or disqualified people except for the clauses listed above. It was considered appropriate that these two types of licensees also be covered by these clauses.

### **Clause 13 – Deeds of exclusion**

An important harm minimisation method is to provide for persons to exclude themselves from a gambling facility where the person recognises that this approach is the only likely way to prevent them from gambling excessively. This removes the person from the temptation of continuing to gamble.

Sub-clause (1) provides that the licensee of a gambling facility must on request by a person sign a deed of exclusion with the person. This clause makes it compulsory for a gambling provider to exclude a person where the person wishes to no longer attend that gambling venue.

Sub-clause (2) ensures that the deed of exclusion must provide for an agreement between the licensee and the person stating that the person will be excluded from the gambling venue for a specified period of time. This exclusion period must be reasonable in the circumstances and in fact could be worked out between the licensee and the person to be excluded. This sub-clause ensures that a formal deed is made between the parties outlining that the licensee undertakes to exclude the person from the premises. This exclusion may include preventing the person from entering the premises or removing the person if the person is already in the gambling facility.

### **Clause 14 – Exclusion of people at risk or excluded under deed**

While clause 13 provides for a person to apply to a licensee to exclude himself or herself from a gambling venue, many problem gamblers will not make this voluntary step. It is therefore necessary to provide a mechanism where if a problem gambler is identified then the licensee must exclude that person to protect that person and their dependants from financial hardship due to their gambling problem. Various safeguards are included in this and the next clause to ensure that only problem gamblers that are at risk are excluded.

Sub-clause (1) provides that the licensee of a gambling facility must exclude a person from the gambling facility if the licensee believes on reasonable grounds that the welfare of the person, or the welfare of the person's dependants, is seriously at risk because of the person's gambling problem. This will ensure that if reasonable grounds exist that indicate a person has a gambling problem, such as by showing the signs of being a problem gambler (see clause 2 in relation to the meaning of gambling problem), the person must be excluded from gambling at the venue. The gambling licensee, once of the view that a person is a problem gambler, must prevent the person from suffering further harm to their welfare by excluding them from gambling at that venue.

The licensee of a gambling facility is also required to exclude from the facility any person who must be excluded under a deed (clause 13). The purpose of this sub-clause is to make it explicit that the licensee must exclude a person who is at risk (sub-clause (1)(a)) or is the subject of a deed of exclusion (sub-clause (1)(b)).

Sub-clause (2) provides that written reasons for the exclusion of a person under sub-clause 14(1)(a) (a person at risk) must be provided at the time of the exclusion.

### **Clause 15 – Matters to which licensee to have regard when deciding whether to exclude**

To ensure that licensees undertake exclusions in an appropriate manner and for the correct reasons, this clause provides some guidance as to what matters must be considered when a person is excluded from a gaming venue. This provision protects the rights of people and their dependants from vexation exclusions by licensees.

Sub-clause (1) provides that in making a decision under clause 14 to exclude a person, the exclusion must be reasonable in the circumstances.

Sub-clause (2) provides that the licensee must have regard to whether the exclusion:

- (a) is necessary to protect the welfare of the person or of their dependants from the risks associated with the person's gambling problem; and
- (b) is in the public interest, particularly in regard to the social and economic costs of problem gambling.

### **Clause 16 – Commission's review of exclusion decisions**



Clause 16 provides for a person who is aggrieved by a decision under clause 14 (Exclusion of people at risk or excluded under deed) to apply in writing to the Commission for a review of that decision.

This ensures that anyone who is concerned about a decision to exclude them from a gambling venue has an independent right of appeal about that decision. Further, someone aggrieved about the commission's decision in reviewing a licensee's exclusion decision can lodge an appeal with the Administrative Appeals Tribunal.

### **Clause 17 – Exclusion procedures**

Clause 17 provides for written procedures to be developed by the licensee in dealing with the exclusion of persons. This requirement has been included to ensure there is a minimum standard and consistency for dealing with the exclusion of persons at that venue. It also ensures that each licensee has considered and prepared a plan for the recognition and exclusion of problem gamblers. An obligation is placed on the licensee to make sure that staff members follow the procedures and that these staff members are provided with adequate training or instruction on the implementation of the procedures.

Sub-clause (1) requires the licensee of a gambling facility to prepare written procedures for dealing with people to be excluded from the gambling at the facility.

Sub-clause (2) provides that the licensee of gambling facility must comply with any written directions given by the Commission to the licensee about the kind of procedures for dealing with people to be excluded from gambling at the facility. The licensee, a staff member and anyone else involved in the exclusion of a person from the facility under these regulations or code of practice, must also comply with written Commission directions about the licensee's procedures to ensure compliance with those procedures.

Sub-clause (3) provides that the licensee must also make arrangements for telling patrons of the facility about support services available to gamblers as well as the use of a deed of exclusion. In relation to a deed, patrons must be informed about the availability and effect of a deed, the confidentiality of a deed, who may be given a copy of a deed and the keeping of a register under clause 18 of this code.

Sub-clause (4) provides that the procedures are written in a clear and simple form to ensure that they are readily understood. This will ensure that they are not ambiguous and are not written in an overly bureaucratic or legalistic manner.

Sub-clause (5) requires that the licensee ensure that staff members whose functions include the exclusion of persons under these regulations and code of practice are competent to perform that function. This requires that the licensee provide adequate training or instruction to staff to properly follow the procedures when excluding someone.

## **Clause 18 – Register of excluded people**

Clause 18 provides for record keeping of excluded persons to ensure that proper details of incidents are recorded so that any follow up action or future enquiries have a consistent and adequate source of data. The information required to be kept under this clause will be invaluable if the excluded person feels aggrieved by the decision and seeks a review of the decision regarding their exclusion.

The licensee must keep a register of people excluded from the facility under this division.

## **Clause 19 – Accounts of certain excluded people**

Clause 19 provides that the licensee of a gambling facility must not allow anyone to use certain excluded person's accounts with that gambling licensee. This clause has been included to protect the person's funds and to ensure that the excluded person does not continue to gamble after having been excluded by instructing someone else to place bets or wagers.

In relation to a person excluded by the Commission or police commissioner under the *Casino Control Act 1988*, section 70A (1) (Notification of exclusion by commissioner of police or commission), the casino licensee must not allow anyone to use the excluded person's account. The *Casino Control Act 1988* reference has been included to make sure "self exclusion" persons (ie. persons who have been excluded by the Commission on the person's application due to problem gambling issues) do not have their accounts accessed whilst they are excluded.

Sub-clause (1) also provides that this clause applies to a licensee of a gambling facility (other than the casino licensee) in relation to a person excluded from that gambling facility under this division (ie. for a problem gambling related issue).

Sub-clause (2) protects a person's funds and ensures that the excluded person does not continue to gamble after having been excluded by instructing someone else to place bets or wagers.

## **Clause 20 – Promotional material not to be sent to certain excluded people**

The casino licensee must not send information or promotional material about gambling activities to a person excluded from the casino by the Commission or police commissioner under the *Casino Control Act 1988*, section 70A (1) (Notification of exclusion by commissioner of police or commission). The *Casino Control Act 1988* reference has been included to make sure "self exclusion" persons (ie. persons who have been excluded by the Commission on the person's application due to problem gambling issues) do not receive promotional material whilst they are excluded.

This clause also applies to a person excluded by a licensee other than the casino licensee under this division and prevents a licensee from sending promotional material to persons excluded from the licensee's gambling facility.

This clause ensures that a person excluded for problem gambling does not receive tempting promotional material to entice the person to gamble or to breach their exclusion notice or deed.

## **Part 1.3 – Financial controls and gambling environment**

### **Clause 21 – Cash facilities**

Ready access to cash through an automatic teller machine or an EFTPOS facility at a gambling venue is likely to increase the level and severity of problem gambling. Restrictions are therefore proposed to limit access to cash as a method of reducing the financial harm faced by problem gamblers.

Sub-clause (1) provides that this clause only applies to a casino licensee. It is only relevant to apply this clause to a physical venue. Gaming machine licensees are not included as they are already covered under the *Gaming Machine Act 1987*.

Sub-clause (2) provides that a licensee of a gambling facility must ensure that a cash facility is not located in a gaming area. This is consistent with the existing provisions under the *Gaming Machine Act 1987*. This will ensure that a gambler will have to leave the gaming area to access cash and will therefore be forced to break from gambling. Access to a cash facility outside the gaming area will still be available for patrons ensuring minimal inconvenience to other persons. *Gaming area* is defined in the Dictionary at the end of the code.

Sub-clause (3) provides a definition of “cash facility” which is consistent with the *Gaming Machine Act 1987* but eliminates any possible confusion with existing mechanisms in the casino to exchange gaming chips for money and vice versa.

### **Clause 22 – Cash payment limits for casino licensees**

Access to large amounts of cash could place temptation before a problem gambler. It is therefore considered desirable to restrict the amount of cash given out as winnings as a method of restricting the amount of cash at the disposal of a gambler. This clause and clause 23 provide some restrictions to the amount of cash available to patrons as a result of collecting winnings.

Sub-clause (1) provides that the casino licensee must not pay out more than \$20,000 in cash winnings in any 12-hour period. A period of 12 hours was considered sufficient for a gambler to have a break and reassess his or her financial position.

Sub-clause (2) provides that winnings over and above the \$20,000 cash payout limit specified under this clause may be paid by other non-cash means such as cheque or electronic funds transfer.

### **Clause 23 – Other cash payment limits**

Sub-clause (1) provides that this sub-clause applies to licensees other than a casino licensee. It provides that these licensees must ensure that the amount of winnings paid in cash to a gambling patron for a particular event or contingency on which the patron has staked or risked money is not more than the amount outlined in the table included in the sub-clause. An event or contingency would include a single stake bet on a gaming machine, a particular horse or dog race, a lottery draw, a housie draw or keno game.

The table provides a maximum cash payout on a single event of \$20,000 for bookmakers and ACTTAB, \$4,000 for lotteries and \$1,000 for gaming machines, housie and keno.

Sub-clause (2) provides that winnings over and above the cash payout limits specified under this clause may be paid by other non-cash means such as cheque or electronic funds transfer.

### **Clause 24 - Cheques**

Problem gamblers can exacerbate their problem by accessing funds when they have run out cash or funds from other sources. One harm minimisation strategy is to minimise the availability or access to further funds. Restricting a person's ability to cash a cheque at a physical gambling venue will assist with this goal.

Sub-clause (1) provides that this clause only applies to a gaming machine licensee. This restriction is limited to gaming machine licensees on the basis that gaming machines are associated with most gambling problems and that cheque-cashing facilities are an integral part of other gambling licensees' business operations. Regulations already exist under the *Casino Control Act 1988* to control the cashing and presentation of cheques at the casino.

Sub-clause (2) provides that a gaming machine licensee must not cash a cheque within a gaming area of the facility or allow a person to buy back or redeem a previously cashed personal cheque. *Gaming area* is defined in the Dictionary at the end of the code. The prevention of buy back or redemption of previously cashed personal cheques is designed to limit the financial dealings of a gambler and so make the person more reticent to cash a cheque in the first place.

Sub-clause (3) provides that a gaming machine licensee must not cash a gambler's cheque for more than \$250 on any day unless the gambler has made arrangements with the licensee on a previous day. This is designed to prevent a gambler from cashing a large cheque on the spur of the moment to chase gambling losses.

However, so as not to inconvenience other patrons, a person who has made prior arrangements to cash a cheque may do so.

A gaming machine licensee must not cash any other cheque for the gambler.

### **Clause 25 – Availability of information**

The provision of information to gamblers so that they may make informed decisions about their gambling is essential. This clause specifies minimum information standards to be provided by licensees. Clause 27 provides for the Commission to give directions to a licensee to ensure compliance with this clause of the code of practice.

Sub-clause (1) provides that the licensee of a gambling facility must display in each gaming area of the facility signs to the effect that people under 18 years old as well as intoxicated people are not allowed to gamble. A single sign may be used to display such information.

Sub-clause (2) states that each sign must be prominently displayed and readily or clearly able to be read.

In relation to the provision of information, sub-clause (3) provides that the licensee must make available in a conspicuous way at the facility information that:

- (a) tells people about restrictions on cashing cheques (if any apply), gambling limits (if any apply) and the chances of winning major prizes; and
- (b) tells people where they can find a copy of rules for each kind of gambling offered, programs for exclusion from gambling, a gambling contact officer, a copy of the regulations or this code of practice and information about counselling services in the ACT for problem gamblers.

Sub-clause (4) requires a licensee to make information about interpreter services available to patrons. This will ensure that patrons of different cultural backgrounds have ready access to advice about interpreting or translating the information provided by the licensee on gambling.

Sub-clause (5) states that this clause is subject to clause 27 (Directions about information, clocks and lighting).

### **Clause 26 – Clocks and lighting**

Physical venues have an opportunity of assisting problem gamblers to become more aware of their environment including the passage of time. This is a harm minimisation strategy which is relatively simple to implement and may assist gamblers control the amount of time spent gambling. Clause 27 provides for the

Commission to give directions to a licensee to ensure compliance with this clause of the code of practice.

Sub-clause (1) outlines that this clause only applies to a gaming machine licensee and to a casino licensee.

Sub-clause (2) provides that a licensee must prominently display the correct time in the facility at all times.

Sub-clause (3) requires that the licensee must ensure that lighting in the facility is adequate to allow the clocks and signs required by this code of practice to be clearly visible to patrons. This will ensure that gaming venues are sufficiently well lit to ensure that patrons may clearly read the clocks and information signs that are considered essential under the code.

Sub-clause (4) states that this clause is subject to clause 27 (Directions about information, clocks and lighting).

### **Clause 27 – Directions about information, clocks and lighting**

To ensure that clauses 25 and 26 are effective in achieving their aims, it is essential that the Commission has the power to direct a licensee to alter or modify the presentation of information, the venue's lighting or a clock in the facility. If a required sign is unclear or too small or is located in an obscure position, a direction to rectify the problem may be given. Similarly, if the lighting in a venue is considered too dull to read the clocks or signage, the Commission can direct the licensee to increase the illumination to ensure that clocks and required signage is clearly visible.

Sub-clause (1) provides that the Commission may give written directions to a licensee about the availability of information under clause 25 as well as about lighting and clocks (clause 26) in the facility to ensure compliance.

Sub-clause (2) provides that a licensee must comply with a direction of the Commission under this clause. This ensures that the Commission's direction to rectify the problem is enforceable.

## **Part 1.4 – Advertising, promotions and inducements**

### **Clause 28 - Advertising**

Advertising is a way of drawing products or goods or services to the attention of the public. However, in order to promote sales or the acceptance of some products, a positive slant or attitude may be portrayed as part of the product's advertising. Due to the potential harm that gambling products may have for some people, it is considered desirable to ensure that all advertising relating to gambling products should be factual and not misleading in any way. Any advertising should not show

or depict any illegal activity such as underage persons gambling. In addition, the depiction of the consumption of alcohol with gambling is not permitted as the consumption of alcohol may impair some gamblers' judgements.

Clause 28 provides a list of matters that are not permitted to be included or associated with advertising of gambling products. It specifically provides that the licensee of a facility must not publish any advertising that:

- (a) encourages anyone to contravene a gaming law;
- (b) shows people under 18 years old gambling;
- (c) encourages or targets people under 18 years old to gamble;
- (d) is false or misleading, particularly about the chances of winning or the expected return to a gambler;
- (e) suggests that gambling is a form of financial investment;
- (f) suggest that skill can influence games that are games of chance; or
- (g) promotes the consumption of alcohol while gambling.

Sub-clause (2) provides that this clause is subject to clause 31 (Directions about advertising, promotions and inducements) to ensure compliance.

### **Clause 29 – Advertising requirements**

Due to the importance of providing gamblers with information about gambling counselling services, it is a requirement of this clause that such information be made available in conjunction with the advertising of gambling products. This clause ensures that advertising is balanced by the identification of a source of information where people can discuss gambling issues or receive help or advice about any gambling related problems.

Sub-clause (1) provides that this clause does not apply to a lottery provider covered by clause 1(f) of the code. This recognises the national approach to the advertising of lottery products in the ACT and also takes into account the level of problem gambling risk associated with lotteries products.

Sub-clause (2) provides that the licensee of a gambling facility must not publish gambling advertising in relation to the facility unless it contains, or is in close proximity to, the name and telephone number of an approved gambling counselling service in the ACT.

Sub-clause (3) provides that this clause is subject to clause 31 (Directions about advertising, promotions and inducements) to ensure compliance.

## Clause 30 – Promotions and inducements

In similar terms to advertising outlined in clauses 28 and 29, promotions and inducements must also provide sufficient information to ensure that gamblers can make an informed judgement on whether to enter or partake in a promotion or inducement. It is considered reasonable that any rules or conditions of a promotion or inducement be made readily available to participants.

In this regard, clause 30 provides for certain requirements to be followed by gambling licensees concerning the conduct of promotions and inducements.

Sub-clause (1) provides that the licensee of a facility must not conduct a promotion that:

- (a) encourages people to gamble at the facility for a minimum period of time to qualify for promoted rewards; or
- (b) encourages people to gamble a minimum amount to qualify for rewards; or
- (c) includes an offer of free or discounted alcohol.

Sub-clause (1) ensures that promotions that offer rewards do not encourage people to gamble for longer periods than they planned. This sub-clause also prevents licensees from encouraging persons to gamble higher amounts than they planned by prohibiting promotions that require minimum spending amounts to qualify for rewards. It also prevents a licensee from encouraging people to consume alcohol while gambling.

Sub-clause (2) provides three exemptions to sub-clause 1(b) outlined above. An exemption is provided by sub-clause 2(a) for commission-based gaming under the *Casino Control Act 1988* as the provisions in this Act relating to commission-based play specifically allow or recognise the unique manner in which a casino licensee deals with its “high roller” players. The regulations cannot be inconsistent with an existing Act.

Sub-clause 2(b) provides an exemption for player reward schemes that are advertised only within the gambling facility or directly to members of the facility. As specified in sub-clause (3), a *player reward scheme* in this context is a scheme in which the player of a gaming machine earns rewards (other than the winnings decided by the machine through its normal use) by playing the machine. These player reward schemes are long-standing arrangements provided by gaming machine licensees that are clubs to reward members that utilise club facilities. The reward schemes usually target all club activities and can even reward attendance at the premises.



Any player reward scheme that is publicly advertised is not permitted. It is considered important that a licensee does not publicly promote or encourage a player reward scheme that involves gambling.

Sub-clause 2(c) exempts lottery providers from complying with sub-clause 1(b) on the basis that lottery products are low risk for problem gamblers and the nature of most lottery play is irrelevant to this provision.

Sub-clause (4), in relation to promotions, provides that a gaming machine licensee must not conduct a promotion at the facility that encourages people to increase their frequency of betting at the facility or the amount of each bet.

In addition, sub-clause (4)(b) provides restrictions for gaming machine licensees in relation to inducements. Free or discounted alcohol cannot be offered as part of an inducement for someone to gamble at the facility. An inducement cannot include an offer of cash, or free or discounted gambling credits, unless the offer of cash or credits is made to all patrons of the facility as part of the facility's usual or regular prize schedule. This means that inducements to gamble that target new members or birthday patrons, or cardholders or are conducted only in happy hours or quieter times are not permissible. Any inducement must be offered all the time to all patrons and not just a select few.

Sub-clause (5) provides that a licensee of a gambling facility must ensure that any promotional material relating to gambling contains the rules and conditions of the promotion or states where they may be inspected at the facility.

Sub-clause (6) provides that the licensee of a gambling facility does in fact make the rules and conditions of the promotion available at the facility. This ensures that sub-clause (5) is effective in its application.

Sub-clause (7) provides that this clause is subject to clause 31 (Directions about advertising, promotions and inducements) to ensure compliance.

### **Clause 31 – Directions about advertising, promotions and inducements**

To ensure that clauses 28, 29 and 30 are effective in achieving their aims, it is essential that the Commission has the power to direct a licensee to alter or modify their advertising promotion or inducement to ensure compliance with this code of practice.

Sub-clause (1) provides that the Commission may give written directions to a licensee to ensure compliance with clause 28 (Advertising), clause 29 (Advertising requirements) and clause 30 (Promotions and inducements).

Sub-clause (2) provides that a licensee must comply with a direction of the Commission under this clause. This ensures that the Commission's direction to rectify the problem is enforceable.

## **Dictionary**

The Dictionary provides a list definitions and explanations relevant to the regulations and the code of practice.

## **Revenue/Cost Implications**

The regulations will have minimal revenue or cost implications for the ACT Government or gambling licensees in the ACT. Some increased regulatory compliance costs will occur for the ACT Gambling and Racing Commission, however these will be absorbed into the Commission's normal audit inspection program.

Some minor one-off costs may be involved for some licensees in the establishment of signs or printing of brochures as required under the code of practice.

Training of staff of licensees of gambling facilities will be required to meet the requirements of certain sections of the code of practice and to ensure compliance. However, it is expected that the cost of this training will be minimal and may be undertaken in-house if the Commission approves the relevant training program.

