

AUSTRALIAN CAPITAL TERRITORY

CASINO CONTROL ORDINANCE 1983

1983 No.53

EXPLANATORY STATEMENT

The Casino Control Ordinance provides for the establishment, ownership and control of a casino, as part of a complex providing hotel, convention, office and other facilities in the Territory.

Section 1 provides for the short title of the Ordinance.

Section 2 deals with interpretation.

Section 3 provides for the lawfulness of the casino operation.

Section 4 enables the Minister, by notice published in the Gazette, to determine a licence fee. The fee is to be payable to the Commonwealth for the purpose of the Australian Capital Territory Social Benefits Trust Fund. The fee may be reviewed annually.

Section 5 enables the Minister, by notice in the Gazette, to determine a rate of tax on gross profit. The tax will be payable for the purpose of the Australian Capital Territory Social Benefits Trust Fund.

Section 6 enables the Minister to appoint a person who is an officer or employee within the meaning of the Public Service Act 1922 to be an inspector for the purposes of the Ordinance and to carry out such tasks as the Minister directs.

Section 7 requires the Minister to issue an inspector with a certificate of appointment. It also provides that an inspector is not authorised to remain on the casino premises if, on request by a casino employee, the inspector does not produce a certificate.

Section 8 provides for the rights of an inspector on casino premises.

Section 9 provides for the powers of inspectors. These powers include powers to require the production of and to inspect gaming equipment, chips or records; to require persons to attend to answer questions or supply information about such equipment, chips or records or the operation or the management of the casino; to examine and test any gaming equipment and chips; to direct the operator not to use equipment he considers to be unsatisfactory; to receive and investigate complaints; and to call to his assistance a police officer or casino employee.

Section 10 provides that an action or proceeding, civil or criminal, does not lie against an inspector for anything done in good faith by him in his capacity as an inspector.

Section 11 enables the Minister to enter into an agreement with a company incorporated in the Territory for the development of the complex. It enables the agreement to be varied from time to time. It requires the Minister to notify the making of an agreement or a variation to the agreement in the Gazette and for the agreement or a variation to be laid before each House of Parliament within 15 sitting days. Either House may, within 15 sitting days, pass a resolution disapproving the agreement.

Section 12 requires that the agreement in Section 11 make provision for the location, siting, development and commissioning of the complex; matters relating to the grant of the casino licence; the ownership and control of the company; the operation of the casino and public facilities and amenities to be provided in the complex. The agreement also contains a covenant by the Minister relating to the grant of a casino licence, and where the company is not to be the licensee, details of the proposed licensee.

Section 13 requires the Minister to grant a casino licence to the company or the company (incorporated in the Territory) specified in the agreement as the proposed licensee. The section provides for the form of the licence and also requires the Minister, where he refuses to grant a licence by virtue of section 15 or 26 of the Ordinance, to notify his refusal and grounds for the refusal.

Section 14 provides that the agreement is to precede the grant of the casino licence.

Section 15 provides that the Minister shall not enter into an agreement unless he is satisfied that the company has or is able to obtain financial resources adequate for the development of the complex, has a business record demonstrating the capacity to develop the complex successfully, has or is able to obtain the services of persons with sufficient relevant experience to manage and operate the complex effectively, enjoys a reputation for sound business conduct, does not have a business association with any person, body or association who or that, in the opinion of the Minister, is not of good reputation and character or has unsatisfactory financial resources, that each officer of the company likely to be involved in the development of the complex is a fit and proper person to be so involved and, in relation to any other matter, is suitable to develop and operate the complex.

The section also provides that where another company is specified in the agreement as the proposed licensee, the Minister shall not grant a casino licence to that company unless he is satisfied, in addition, that each officer or other person to be involved with the proposed licensee is a fit and proper person and where the casino is not in all respects fully established by the company, the proposed licensee has, or is able to obtain such staff, equipment and financial resources to operate the casino efficiently and successfully.

Section 16 enables the Minister to authorise a person to conduct an investigation for the purposes of section 15. An authorised person, may, by notice in writing and having given notice of the requirement to comply, require a person to furnish information, produce documents, answer questions or permit the authorised person to enter and inspect premises upon which business operations are carried on that are relevant to the investigation. A penalty of \$5,000 for a body corporate and \$1,000 for a natural person is provided for non-compliance.

Section 17 requires that a person authorised to conduct an investigation under section 16 may not make a record of, divulge or communicate information concerning the affairs of another person acquired by him by reason of his authorization or produce to a person a document produced in pursuance of the Ordinance. A penalty of \$1,000 or 6 months imprisonment or both is provided. Further, the person may not be required to produce this information to a court unless it is necessary for the purposes of the Ordinance or proceedings under or arising out of the Ordinance.

Section 18 provides that a casino licence remains in force unless it is suspended, cancelled or surrendered pursuant to the Ordinance.

Section 19 enables a licensee to surrender the licence at any time. It also deems a casino licence to have been surrendered where the company ceases to be the owner of the complex or the licensee ceases to be responsible for the management and operation of the casino in circumstances other than where there is a casino lease, management agreement or assignment of the lease.

Section 20 enables the Minister to cancel or suspend the casino licence where the licensee is convicted of an offence under the Ordinance, is convicted of an offence punishable by imprisonment for a period of 12 months or more, contravenes or fails to comply with a term or condition of the agreement applicable to the licensee, contravenes or fails to comply with a provision of the Ordinance, contravenes or fails to comply with a requirement by the Treasurer in relation to a matter of foreign investment, refuses or fails to comply with a direction by the Minister in relation to the operations of the casino, supplies false or misleading information, fails to meet its financial commitments or is being wound up.

Where, in the opinion of the Minister, a person concerned with the licensee in the licensee's operation or business, ceases to be a suitable person to be so concerned having regard to matters specified in section 15 and 26, the Ordinance provides that the Minister may cancel or suspend the licence.

The Ordinance also requires the Minister, where a ground for cancellation or suspension arises by notice in writing, to invite the company, the licensee, the lessee under the casino lease, the operator under a casino management agreement or a person who has an interest in the licence, as appropriate, to show cause why the casino licence should not be cancelled or suspended.

The Minister is required to consider each response and he may then either take no further action, issue a letter of censure, give a direction or cancel or suspend the casino licence.

The Ordinance also provides that the Minister may cancel or suspend a licence where a direction referred to above has not been complied with in the specified time. He may also suspend a licence where he considers it imperative in the public interest to do so and any period of suspension may be reduced or cancelled by the Minister.

Where a casino licence is cancelled or suspended the Minister is required to notify the licensee in writing and state the grounds for the cancellation or suspension.

Section 21 enables the licensee, with the approval of the Minister to assign the casino licence. The section provides that a licensee who desires to assign the licence shall apply in writing in a form approved by the Minister supplying such particulars in relation to the proposed assignee as the Minister requires. The section also provides that in considering such an application the Minister shall have regard to the matters referred to in section 15 and 26 and also enables the Minister to cause inquiries to be made and for sections 16 and 17 to apply as if the inquiries were in relation to the application for a casino licence.

The section provides for the Minister to approve or refuse the application for an assignment but, where a proposed assignee and a casino licensee are corporations that are related to each other, the approval shall not be refused unless there are special circumstances to warrant that refusal.

Section 22 enables the company, with the approval in writing of the Minister, to lease to a person the complex or the casino. It provides that an application shall be made in an approved form and shall be accompanied by a draft of the proposed lease, particulars as to the financial standing, relevant managerial experience and business reputation of the proposed lessee and such other particulars as are prescribed.

The section also provides that the Minister may require the company or the proposed lessee to supply him with additional information or documents. Where the Minister refuses to approve a casino lease he is required to inform the company and proposed lessee of the refusal and of the grounds for refusal.

Section 23 enables the company, the licensee or the lessee with the approval in writing of the Minister to enter into an agreement with a person for the management and operation of the complex or the casino. It provides that an application shall be made in an approved form and shall be accompanied by a draft of the proposed agreement, particulars as to the financial standing, relevant managerial experience and business reputation of the proposed operator and such other particulars as are prescribed.

The section also provides that the Minister may require the company, licensee or lessee and the proposed operator to supply him with additional information or documents. Where the Minister refuses to approve a casino management agreement he is required to inform the applicant and the proposed operator of the refusal and of the grounds for refusal.

Section 24 requires the Minister, before making a decision whether or not to approve an application relating to a casino lease or management agreement, to cause inquiries to be undertaken in respect of the application to satisfy himself that the proposed lessee or operator or associated person is suitable to undertake and be involved with the lease or management agreement. In considering an approval the Minister needs to have regard to the matters specified in section 15 and may not approve a lease or agreement unless he is satisfied that the ownership and control of the proposed lessee or operator will comply with the requirements of section 26.

Section 25 provides for the variation of a casino lease or management agreement with the approval, in writing, of the Minister. In giving his approval the Minister is required to have regard to the likely effect of such a variation and may require a party to supply him with information and documents. Where the Minister refuses to approve a variation he is required to inform the parties by notice in writing of his refusal and the grounds for the refusal.

Section 26 provides that the Minister shall not enter into an agreement or grant a casino lease where a requirement made of a company or the proposed licensee by the Treasurer in relation to a matter of foreign investment has not been complied with or a foreign person holds a controlling interest in the company or proposed licensee unless the Minister gives his consent in writing to the holding of such controlling interest by a foreign person.

Section 27 provides that where by virtue of a share transfer transaction or other proposed change affecting the ownership or control of the company or licensee a foreign person is to acquire or increase an interest in the company or licensee, the company or licensee shall apply to the Minister for approval in an approved form. The Minister may not approve such a transaction if, by reason of the transaction, section 26 would operate to prohibit the grant of a casino licence. Where the Minister refuses to approve the transaction he shall inform the applicant in writing of his refusal and of the grounds for the refusal.

Section 28 provides that the company or the licensee shall not without the approval of the Minister appoint as a director any person who is not ordinarily resident in Australia. The section also requires that a person whose name is proposed for election or appointment as a director shall, before the relevant meeting, deliver to the secretary of the company or the licensee a declaration stating whether he is a person ordinarily resident in Australia and whether there is any matter involving any person not ordinarily resident in Australia in respect of the discharge of his duties as such a proposed director. A penalty of \$1,000 or 6 months imprisonment or both is provided for a false statement.

The section also provides that the company and the licensee may not have a greater number of directors who are persons not ordinarily resident in Australia than the prescribed number.

The section also provides that a person who has been convicted of an offence punishable by imprisonment for a period exceeding one year shall not be appointed as a director of the company or the licensee.

Section 29 provides that where a member of the company or the licensee company attends a meeting convened in accordance with the Companies Act 1981 he shall, before the meeting, complete a declaration in the prescribed form disclosing whether the member is, or represents, a foreign person, and if so in respect of what shares. Further the section provides that a meeting shall not, without the Minister's consent, transact any business unless it appears from the declarations made that the percentage of votes cast in any resolution by or on behalf of foreign persons would not exceed the prescribed percentage.

Section 30 provides that the company or licensee shall not, except with the approval of the Minister, mortgage or create any other charge over any property forming part of the complex or the casino.

Section 31 provides that where the Minister believes that the aggregate of the nominal amounts of shares held by or on behalf of foreign persons in the company or the licensee constitute a contravention of a provision of the Ordinance he may give a direction with respect to the disposal of foreign shares. The section provides for a direction to specify the number of shares to be disposed of, the persons who are to dispose of the shares and the manner and period within which the disposal of the shares is to be made.

Section 32 requires that the operator maintain the facilities and amenities of the casino in such condition as will promote the comfort and satisfaction of patrons, ensure the casino is properly and competently conducted and ensure that all casino installations, equipment and security and safety procedures are available and used effectively.

Section 33 provides that the operator shall apply in writing to the Minister for approval of plans and diagrams of the casino in relation to the location and layout of the gaming room(s), placement of gaming tables and facilities; systems of communication and surveillance; reception, office space and security arrangements; and bar, lounge areas and other facilities and amenities intended for public use. The section also provides that the Minister shall not approve the plans unless they satisfy specified requirements in relation to the other facilities provided in the complex, certain factors relating to entry control, and considerations relating to the availability of bar facilities.

The Minister may require the supply of additional information and, where he refuses to approve plans, will be required to notify the applicant in writing giving the grounds for his refusal.

The section also provides that the operator shall not operate the casino otherwise than in accordance with the plans and diagrams approved by the Minister.

Section 34 provides for ministerial approval in relation to the variation of the location or layout of the casino. Failure to obtain such approval will result in a penalty of \$10,000 for a body corporate or \$2,000 for a natural person.

Section 35 provides for entry control into the casino. The section will provide that a person does not have a right to enter and remain in the casino and that a person may not enter or remain in the casino if, on request made by a casino employee, he refuses or fails to produce evidence of his identity. A penalty of \$1,000 for non-compliance is provided.

The section also provides that a person shall not enter or remain in the casino if he is under the age of 18 years, is requested not to enter or to leave the casino on the ground that he appears to be under the influence of alcohol or a drug, or has been detected in misconduct or in cheating or has received a direction that he is not to enter or is to leave the casino. A penalty of \$1,000 for non-compliance is provided.

Section 36 provides that the operator shall not knowingly permit to enter, be in or remain in the casino a person who is not permitted to be there by reason of the grounds specified in section 35. A penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided.

Section 37 provides that the operator may not operate the casino otherwise than in accordance with a schedule of operating times approved by the Minister. The section provides for the application for approval and variation of the schedule by the operator and provides a penalty of \$10,000 for a body corporate or \$2,000 for a natural person for operation outside the approved times.

Section 38 provides for the variation of operating times by the Minister and a penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided for non-observance of the times so varied.

Section 39 provides for the Minister by notice published in the Gazette, to declare a game to be an authorised game for the purposes of the Ordinance. It also provides that the Minister may not declare a game to be authorised unless he has approved the rules under which the game is to be played. It also enables the Minister to direct the operator to alter the approved rules and for the operator to ensure that any authorised game conducted in the casino is conducted in accordance with the approved rules for that game. It is further provided that the operator ensure that printed copies of the rules are freely available to patrons of the casino.

Section 40 requires the operator to ensure that all gaming equipment in the casino is maintained in good order and condition and that no person shall exhibit or have any gaming equipment or chips in any part of the complex other than the casino. Further a person shall not exhibit or have gaming equipment or chips in the casino other

than gaming equipment or chips approved by the Minister. A penalty of \$5,000 for a body corporate or \$1,000 for a natural person is provided.

Section 41 prohibits poker machines in the casino and provides for the same penalty as in section 40 for contravention of this section.

Section 42 relates to the consumption of liquor in the casino. It is an offence to sell, serve or offer liquor to a person who is playing, observing or attending at a gaming table or gaming activity. It also is an offence for a person to consume liquor while he is playing, observing or attending at a gaming table or activity. The section also requires that a beverage shall not be provided in the casino unless that beverage is provided in a glass or container of a type approved by the Minister for a beverage of that kind. A penalty of \$2,500 for a body corporate or \$500 for a natural person is provided.

Section 43 provides that entertainment, either live or by means of closed circuit television, may not be provided in the casino. A penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided.

Section 44 provides that advertisements relating to the casino are required to be in accordance with the approval of the Minister. A penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided. The section also requires the Minister to provide written notice of a refusal to approve giving the grounds for the refusal.

Section 45 provides that the operator or the casino employee shall not, in relation to the operation of the casino, extend credit in any form to any person, accept a credit wager, provide cash or chips upon a blank cheque, make a loan or provide cash or chips in respect of a credit card transaction. A penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided.

Section 46 relates to cheques and provides that an operator may not accept a cheque other than a traveller's cheque or a cheque which meets the specific requirements of the section. A cheque exceeding \$100 requires approval by a casino employee designated for the purpose. The section also prohibits acceptance of a cheque where a previous cheque received from that person has been dishonoured and the debt so incurred has not been discharged. A penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided.

Section 47 enables a person, with the agreement of the operator, to redeem any cheque accepted from him by the operator for cash, chips or a consolidating cheque.

Section 48 provides that an action lies at the suit of the operator to institute proceedings to recover the amount of a cheque drawn in respect of a gaming debt incurred at the casino and

subsequently dishonoured. Further, the section provides that the operator shall not release to a third party the whole or any part of a debt incurred by a person at the casino by reason of the dishonouring of a cheque. A penalty of \$25,000 for a body corporate or \$5,000 or 2 months imprisonment or both for a natural person is provided. The section also provides that an action lies against the operator to recover money won at gaming.

Section 49 relates to search and seizure by an inspector. The section empowers an inspector to search a person or clothing being worn by, or property in the immediate control of, a person and to enter and search land, premises, a vehicle or a vessel. The inspector is empowered to seize any thing he reasonably believes to be connected with an offence if the search and seizure is made in pursuance of a warrant or after obtaining consent of the person, occupier or person in charge, as appropriate.

The section also provides that where the inspector seeks consent he shall inform the person he may refuse his consent and ask the person to sign an acknowledgement that he has been so informed and that he has given his consent.

The section also provides for the issue of a warrant by a magistrate and if necessary the application for a warrant to be made by telephone.

Section 50 provides for a police officer to enter at any time any part of the casino if authorised by a police officer of or above the rank of inspector or requested by an inspector to do so.

Section 51 provides the police with search and seizure powers without an order of a court or a warrant in an emergency.

Section 52 provides that where any thing is seized pursuant to section 49 or 51, if a person is not charged within a period of 21 days after seizure, the Minister shall arrange for its return. Where a person is convicted of an offence the Court may order its return or its forfeiture to the Commonwealth and its disposal as the Minister directs.

Section 53 provides for an offence where an inspector is obstructed in the exercise of his powers and the performance of his duties. A penalty of \$1,000 is provided.

Section 54 requires compliance with the requirement of an inspector. A penalty of \$1,000 is provided.

Section 55 enables the Commissioner of Police, by notice in writing, to direct the operator to exclude a person from the casino. Such a direction may be given in respect of a person whom the Commissioner believes, on reasonable grounds, to have been connected with any malpractice in gaming, swindling or cheating. A penalty of \$10,000 for a body corporate or \$2,000 for a natural person is provided.

Section 56 is a general offence provision providing penalties of \$5,000 for a body corporate or \$1,000 for a natural person.

Section 57 provides for the licensing of casino employees. Failure to hold a licence incurs a penalty of \$10,000 for a body corporate or \$2,000 or imprisonment for 1 year or both for a natural person.

Section 58 provides that where a person commences, or ceases, to be employed in the casino, the operator shall notify the Minister in writing within 7 days. Failure to comply involves a penalty of \$5,000 for a body corporate or \$1,000 for a natural person.

Section 59 enables the Minister to cause certain inquiries to be made at any time in respect of the company, licensee, lessee or operator or any associated person.

Section 60 enables the Minister by notice in writing to give directions in relation to any aspect of the management, supervision, control or operation of the casino. Failure to comply with a direction incurs a penalty of \$25,000 for a body corporate or \$5,000 for a natural person.

Section 61 provides for the service of notices.

Section 62 provides for review of certain discretions under the proposed Ordinance by the Administrative Appeals Tribunal.

Section 63 enables the Minister to make regulations pursuant to the Ordinance.

Ord. No. 71/83

Handwritten:
4/11/83