



Australian Capital Territory

Gambling and Racing Control Act 1999

A1999-46

Republication No 7

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Gambling and Racing Control Act 1999* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 November 2004. It also includes any amendment, repeal or expiry affecting the republished law to 1 November 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Gambling and Racing Control Act 1999

Contents

| | Page | |
|---------------------|--|---|
| Part 1 | Preliminary | |
| 1 | Short title | 2 |
| 3 | Definitions for Act | 2 |
| 4 | Gaming laws | 3 |
| Part 2 | The commission | |
| Division 2.1 | Establishment, functions and powers of commission | |
| 5 | Gambling and racing commission | 5 |
| 6 | Functions of commission | 5 |
| 7 | How commission must perform its functions | 7 |
| 8 | Community consultation | 7 |
| 9 | Powers of commission | 7 |
| 10 | Delegation | 8 |
| 11 | Personal liability | 8 |

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Gambling and Racing Control Act 1999
Effective: 01/11/04-31/12/05

contents 1

| | Page |
|--|------|
| Division 2.2 Constitution of commission | |
| 12 Membership of commission | 8 |
| 13 Meetings | 8 |
| 14 Staff | 8 |
| 15 Use of consultants and contractors | 9 |
| | |
| Part 3 Role of commission in dealing with social effects of gambling | |
| Division 3.1 Monitoring and research | |
| 17 Monitoring and research | 10 |
| Division 3.2 Dealing with social effects of gambling | |
| 18 Code of practice | 10 |
| 19 Education and counselling | 11 |
| | |
| Part 4 Powers of investigation | |
| Division 4.1 Authorised officers | |
| 20 Authorised officers | 13 |
| 21 Identity cards for authorised officers | 13 |
| Division 4.2 Powers of investigation | |
| 22 Power to require information, instruments or records or attendance for examination | 14 |
| 22A Commission may require records to be kept | 15 |
| 23 Powers of entry and inspection | 16 |
| 24 Search warrant | 17 |
| 25 Use and inspection of documents and records produced or seized | 18 |
| 26 Use of goods produced or seized | 18 |
| 27 Selfincrimination | 19 |
| 28 Failing to comply with requirement of authorised officer | 20 |
| 30 Access to public records without fee | 20 |
| 31 Investigation of complaints | 20 |
| Division 4.3 Cooperation with other jurisdictions | |
| 32 Cooperative agreements | 21 |
| 33 Investigation at request of reciprocating jurisdiction | 21 |

| | Page |
|---|------|
| Division 4.4 Secrecy | |
| 34 Meaning of <i>gaming officer</i> in div 4.4 | 21 |
| 35 Gaming officers shall respect confidentiality | 22 |
| 36 Permitted disclosures of a general nature | 22 |
| 37 Permitted disclosures to particular persons | 23 |
| 38 Prohibition on secondary disclosures of information | 24 |
| 39 Further restrictions on disclosure | 24 |
| | |
| Part 5 Inquiries | |
| 40 Starting an inquiry | 25 |
| 41 Interested persons may make submissions | 25 |
| 42 Hearings to be in public | 25 |
| 43 Adjournments | 25 |
| 44 Record of proceedings | 25 |
| 45 Evidence | 25 |
| 46 Report and recommendations | 26 |
| 47 Rules of commission | 26 |
| | |
| Part 6 Tax administration | |
| 48 Provisions of Taxation Administration Act apply | 27 |
| 49 Commission may perform functions under Commonwealth Act | 27 |
| | |
| Part 7 Casino control | |
| 50 Meaning of <i>Casino Act</i> in pt 7 | 28 |
| 51 Functions of commission in relation to Casino Act | 28 |
| | |
| Part 8 Racing | |
| 52 Meaning of <i>Racing Act</i> in pt 8 | 30 |
| 53 Functions of commission in relation to Racing Act | 30 |
| | |
| Part 8A Service of documents | |
| 53A Service of documents etc on people generally | 31 |
| 53B Serving documents etc on commission | 33 |

| | Page |
|-------------------|---|
| Part 9 | Miscellaneous |
| 53C | Acts and omissions of representatives 35 |
| 53D | Approved forms 36 |
| 54 | Regulation-making power 36 |
| | |
| Schedule 1 | Appointment and terms of office of members of commission |
| 1 | Appointment of the chief executive 37 |
| 2 | Appointment of ordinary members 37 |
| 3 | Appointment of chairperson 38 |
| 4 | Acting appointments 38 |
| 5 | Term of office 39 |
| 6 | Removal of members 39 |
| 7 | Remuneration and allowances 39 |
| 8 | Leave of absence 40 |
| 9 | Disclosure of interests 40 |
| | |
| Schedule 2 | Meetings |
| | 41 |
| | |
| Endnotes | |
| 1 | About the endnotes 42 |
| 2 | Abbreviation key 42 |
| 3 | Legislation history 43 |
| 4 | Amendment history 44 |
| 5 | Earlier republications 46 |



Australian Capital Territory

Gambling and Racing Control Act 1999

An Act to provide for the administration of certain Acts relating to gambling and racing and to create the gambling and racing commission

Part 1 Preliminary

1 Short title

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

3 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

annual report means the report that the commission is required to prepare under the *Annual Reports (Government Agencies) Act 2004*.

casino—see the *Casino Control Act 1988*.

code of practice—see section 18.

commission means the Gambling and Racing Commission established under part 2.

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

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

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

gaming law—

(a) in relation to the Territory—see section 4; and

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

gaming officer means—

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

inquiry means an inquiry conducted under part 5.

racing means racing conducted for the purpose of betting.

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

4 Gaming laws

For this Act, the following are *gaming laws*:

- (a) this Act;
(b) the *Betting (ACTTAB Limited) Act 1964*;
(c) the *Casino Control Act 1988*;
(d) the *Games, Wagers and Betting Houses Act 1901*;
(e) the *Gaming and Betting Act 1906*;
(f) the *Gaming Machine Act 2004*;
(g) the *Interactive Gambling Act 1998*;
(h) the *Lotteries Act 1964*;

- (i) the *Pool Betting Act 1964*;
- (j) the *Race and Sports Bookmaking Act 2001*;
- (k) the *Racing Act 1999*;
- (l) the *Unlawful Games Act 1984*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

Part 2 The commission

Division 2.1 Establishment, functions and powers of commission

5 Gambling and racing commission

- (1) There shall be an ACT Gambling and Racing Commission.
- (2) The commission—
 - (a) is a body corporate with perpetual succession; and
 - (b) shall have a common seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- (3) The common seal of the commission shall be kept in such custody as the commission directs and shall not be used except as authorised by the commission.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the commission affixed to a document and shall presume that it was duly affixed.

6 Functions of commission

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

- (2) Without limiting subsection (1), the functions of the commission include the following:
- (a) regulating—
 - (i) the activities of casinos; and
 - (ii) machine gaming; and
 - (iii) lotteries; and
 - (iv) racing, as provided in the *Racing Act 1999*; and
 - (v) betting; and
 - (vi) interactive gambling;
 - (b) approving gaming and racing activities;
 - (c) monitoring and researching the social effects of gambling and of problem gambling;
 - (d) providing education and counselling services;
 - (e) engaging in community consultation, as appropriate, on matters related to its functions;
 - (f) reviewing legislation and policies related to gaming and racing and making recommendations to the Minister on those matters;
 - (g) monitoring, researching and funding activities relating to gaming and racing;
 - (h) investigating and conducting inquiries into—
 - (i) issues related to gaming and racing; and
 - (ii) activities of persons in relation to gaming and racing, for the purpose of performing functions or exercising powers under a gaming law;
 - (i) collecting taxes, fees and charges imposed or authorised by or under gaming laws.

- (3) The Minister may, in writing, direct the commission by way of—
- (a) guidelines directing the way the commission is to perform any of its functions; or
 - (b) directions in writing relating to particular matters.
- (4) A guideline under subsection (3) (a) is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.
- (5) A direction given under subsection (3) (b) shall be included in the annual report of the commission.

7 How commission must perform its functions

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

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

8 Community consultation

- (1) In performing its functions of reviewing legislation and policies in order to make recommendations to the Minister, the commission must engage in community consultation.
- (2) The commission's annual report must describe the processes of community consultation used by the commission.

9 Powers of commission

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

10 Delegation

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

11 Personal liability

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

- (a) administering or enforcing a gaming law of the Territory; or
- (b) administering or enforcing a gaming law of a reciprocating jurisdiction in accordance with division 4.3.

Division 2.2 Constitution of commission

12 Membership of commission

- (1) The commission shall consist of—
 - (a) the chief executive; and
 - (b) 4 other ordinary members of whom 1 shall have knowledge, experience or qualifications related to providing counselling services to problem gamblers.
- (2) The appointments and terms of office of the members shall be in accordance with schedule 1.

13 Meetings

The meetings of the commission shall be in accordance with schedule 2.

14 Staff

The staff of the commission shall be employed under the *Public Sector Management Act 1994*, division 5.3.

15 Use of consultants and contractors

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

Part 3 Role of commission in dealing with social effects of gambling

Division 3.1 Monitoring and research

17 Monitoring and research

- (1) The commission must monitor the social and economic effects of gambling and problem gambling in the Territory, including the need for counselling and other services.
- (2) The commission may conduct or sponsor research into the social and economic effects of gambling in the Territory.
- (3) The Minister, or a resolution of the Assembly, may require the commission to address particular matters when performing its functions under this section.
- (4) The commission must, at intervals of not less than 12 months, provide reports to the Minister on the results of its activities under this section.
- (5) The Minister must cause a report under this section to be laid before the Assembly within 14 sitting days after receiving it.

Division 3.2 Dealing with social effects of gambling

18 Code of practice

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

- (2) A code of practice may include, but is not limited to, guidelines about the following:
- (a) advertising, promotional practices and the offering of inducements;
 - (b) providing objective and accurate information about losing and winning;
 - (c) limiting facilities that make it easy for a gambler to spend more than he or she originally intended, such as automatic teller machines, credit facilities and allowing persons to pay by cheque or credit card;
 - (d) providing mechanisms to allow problem gamblers to exclude themselves using a licensee's facilities for gambling;
 - (e) training staff to recognise and deal appropriately with people who are problem gamblers or are at risk;
 - (f) developing methods of dealing with staff or clients who are problem gamblers or are at risk.
- (3) The commission must, for each licence under a gaming law that permits the licensee to conduct gambling, develop and review a code of practice to apply to the licensees and make recommendations to the Minister for appropriate regulations.

19 Education and counselling

- (1) The commission may carry out or sponsor—
- (a) counselling for persons with gambling problems; or
 - (b) publicity and education programs—
 - (i) providing consumer information for different kinds of gambling; or
 - (ii) about the risks of gambling; or
 - (iii) about dealing with gambling problems.

Part 3 Role of commission in dealing with social effects of gambling
Division 3.2 Dealing with social effects of gambling

Section 19

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

Part 4 Powers of investigation

Division 4.1 Authorised officers

20 Authorised officers

- (1) The members of the commission are authorised officers.
- (2) The chief executive may appoint persons to be authorised officers.
- (3) A person who—
 - (a) is engaged in the administration or enforcement of a gaming law of a reciprocating jurisdiction; and
 - (b) is recognised in writing by the chief executive as an authorised officer for this subsection;

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

- (4) A gaming officer to whom the chief executive delegates functions under division 4.2 is an authorised officer.

21 Identity cards for authorised officers

- (1) An authorised officer shall be issued with an identity card in a form approved by the commission—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the gaming laws.
- (2) When recognising an officer of a reciprocating jurisdiction for section 20 (3), the commission may approve the use of the identity card issued by that jurisdiction for subsection (1).

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

Maximum penalty: 1 penalty unit.

Division 4.2 Powers of investigation

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

- (1) The commission may, for a purpose related to the administration or enforcement of a gaming law, by written notice served on a person, require the person—
- (a) to provide to the commission (either orally or in writing) information that is described in the notice; or
 - (b) to attend and give evidence before the commission or an authorised officer; or
 - (c) to produce to the commission a record or other document described in the notice that is in the person's custody or control.
- (2) Where a notice to a person under subsection (1) is made in order to determine that person's tax liability, the notice shall state that the requirement is made for that purpose, but the commission is not otherwise required to identify a person in relation to whom any information, evidence, record or other document is required under this section.
- (3) The commission—
- (a) may specify whether information or evidence to be provided or given under this section shall be given orally or in writing; and
 - (b) may require any information or evidence given in writing to be in the form of, or verified by, a statutory declaration; and

- (c) may require any information or evidence given orally to be given on oath or affirmation.
- (4) A person shall not, without reasonable excuse, refuse or fail—
- (a) to comply with the requirements of a notice under this section within the period specified in the notice or any further period allowed by the commission; or
- (b) to comply with any other requirement of the commission as to the giving of evidence or the manner in which information or evidence is to be provided or given under this section.

Maximum penalty: 50 penalty units.

- (5) A person required to attend before an authorised officer to give oral evidence shall be paid expenses in accordance with the scale of allowances determined under the *Taxation Administration Act 1999*, section 139 for section 82 (5) of that Act.
- (6) Subsection (5) does not apply to a person, or a representative of a person, giving evidence in relation to the person's own obligations under a gaming law.

22A Commission may require records to be kept

- (1) For the administration or enforcement of a gaming law, the commission may, in writing, require a stated class of people to keep records of the kind, and in the way, stated in the instrument.
- (2) A person to whom a requirement under subsection (1) applies must comply with the requirement.

Maximum penalty: 50 penalty units.

- (3) An instrument under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

23 Powers of entry and inspection

- (1) An authorised officer may, for a purpose related to the administration or enforcement of a gaming law, enter and inspect any premises at any reasonable time and do any of the following:
- (a) remain on the premises;
 - (b) examine all documents and remove, or take copies of or extracts from, any document on behalf of the commission;
 - (c) inspect any gaming equipment and remove any gaming equipment that the officer believes on reasonable grounds to be connected with an offence against a gaming law;
 - (d) remove any thing that the officer believes on reasonable grounds might be used as evidence in a prosecution for an offence against a gaming law;
 - (e) require any person on the premises to answer questions or otherwise furnish information, including information as to the identity of the person or another person;
 - (f) require any person on the premises to give access to any document in the person's custody or control, and to—
 - (i) produce or display the document; or
 - (ii) provide a copy of the document or a version of it in some form other than that in which it is normally kept;in any printed, electronic or other form that it is reasonably practicable to provide;
 - (g) require any person on the premises to produce any gaming equipment in the person's custody or control;
 - (h) require the owner or occupier of the premises to provide the officer with such assistance and facilities as is or are reasonably necessary to enable the officer to exercise powers under this part.

- (2) An authorised officer who enters premises under subsection (1) and is requested by the occupier to identify himself or herself is not authorised to remain on the premises unless he or she produces his or her identity card to the occupier.
- (3) The powers of entry and inspection under this section shall not be exercised in relation to premises, or a part of premises, used for residential purposes except with the consent of the owner or occupier of the premises or part.
- (4) In this section:
occupier, in relation to premises, includes a person apparently in charge or responsible for the premises.

24 Search warrant

- (1) If a magistrate is satisfied, on the application of the chief executive supported by an affidavit or other sworn evidence, that there is a reasonable ground for suspecting that a document or gaming equipment relevant to an investigation into a possible offence against a gaming law, or any other thing constituting evidence of such an offence, may be found in certain premises, the magistrate may issue a warrant authorising an authorised officer together with any assistants named or described in the warrant—
 - (a) to enter those premises, using such force as is necessary for the purpose; and
 - (b) to search the premises and to break open and search anything in the premises in which a document or any gaming equipment may be stored or concealed; and
 - (c) to seize and remove, on behalf of the commission—
 - (i) any document that appears to be relevant to the obligations of a person under a gaming law; or

- (ii) any gaming equipment that the officer believes on reasonable grounds to be connected with an offence against a gaming law; or
 - (iii) any other thing that the officer believes on reasonable grounds might be used as evidence in a prosecution for an offence against a gaming law.
- (2) The powers conferred by this section are in addition to, and not in derogation of, any other powers conferred by law.

25 Use and inspection of documents and records produced or seized

- (1) This section applies to a document that has been produced to the commission or seized and removed by an authorised officer.
- (2) The document may be retained for as long as is reasonably necessary to enable it to be inspected, copies of, or extracts or notes from it to be made, and for a determination to be made as to whether subsection (3) applies.
- (3) If the document is required by the commission as evidence for legal proceedings, it may be retained until the proceedings are finally determined.
- (4) The commission shall permit a person who would be entitled to inspect the document if it were not in the possession of the commission to inspect the document at any reasonable time.
- (5) Nothing in this section prejudices a lien a person has on the document.

26 Use of goods produced or seized

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

- (2) The thing may be retained for as long as is reasonably necessary to enable it to be inspected and for a determination to be made as to whether subsection (3) applies.
- (3) If the thing is required by the commission as evidence for legal proceedings, it may be retained until the proceedings are finally determined.
- (4) If the owner of the thing is convicted as a result of the legal proceedings, the court may direct that the thing be forfeited to the Territory, and in that case it may be disposed of as the Minister directs.
- (5) If the thing is no longer required by the commission, but the commission is unable to return it to the owner within 12 months despite reasonable efforts to do so (for example because the owner has left the Territory) the commission may direct that the thing be disposed of by auction and the proceeds held for the owner in lieu of the thing.
- (6) Nothing in this section prejudices a lien a person has on the thing.

27 Selfincrimination

- (1) A person is not excused from answering a question, providing information or producing a document, when required to do so under this Act, on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.
- (2) If the person objects to answering the question, providing the information or producing the document on that ground, the answer, information or document is not admissible against the person in any criminal proceedings other than—
 - (a) proceedings for an offence with respect to false or misleading statements, information or records; or
 - (b) proceedings for an offence in the nature of perjury.

28 Failing to comply with requirement of authorised officer

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

Maximum penalty: 50 penalty units.

- (2) A person does not commit an offence against this section arising from the entry of an authorised officer onto premises unless it is established that, at the material time, the authorised officer—
- (a) identified himself or herself as an authorised officer; and
 - (b) warned the person that a refusal or failure to comply with the requirement constituted an offence.

30 Access to public records without fee

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

31 Investigation of complaints

- (1) A person may lodge a complaint with the commission, in a form approved by the commission, about compliance with a gaming law.
- (2) Where a complaint has been lodged under this section and investigated by the commission, the commission may give the complainant information about the results of the investigation if the commission is satisfied that—
- (a) the complainant has a legitimate interest in the information; and
 - (b) giving the information to the complainant would not unreasonably prejudice the privacy or other interests of another person.

- (3) The commission shall include in its annual report a statistical summary of complaints lodged under this section and the results of any investigations resulting from them.

Division 4.3 Cooperation with other jurisdictions

32 Cooperative agreements

The commission may make agreements with the responsible authorities of reciprocating jurisdictions governing cooperation under this division.

33 Investigation at request of reciprocating jurisdiction

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

Division 4.4 Secrecy

34 Meaning of *gaming officer* in div 4.4

In this division:

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

35 Gaming officers shall respect confidentiality

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

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

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

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

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

Note If a form is approved under s 53D (Approved forms) for an oath or affirmation, the form must be used.

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

36 Permitted disclosures of a general nature

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

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

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

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

37 Permitted disclosures to particular persons

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

- (a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of the person to whom the information relates; or
- (b) in connection with the administration or execution of a gaming law (including for the purpose of any legal proceedings arising out of a gaming law or a report of any such proceedings); or
- (c) in accordance with a requirement imposed under an Act; or
- (d) to any of the following persons, or to a person authorised to receive the information by any of the following:
 - (i) the commissioner for revenue;
 - (ii) the ombudsman;
 - (iii) the commissioner of police;
 - (iv) the auditor-general;
 - (v) for the purpose of the administration or enforcement of a gaming law of a reciprocating jurisdiction—a person who or authority that exercises powers or performs functions under that law;
 - (vi) the Australian Statistician;
 - (vii) the Australian Crime Commission;
 - (viii) a person prescribed by the regulations for this section; or

(e) in accordance with section 31.

38 Prohibition on secondary disclosures of information

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

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

39 Further restrictions on disclosure

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

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

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

(2) In this section:

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

Part 5 Inquiries

40 **Starting an inquiry**

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

41 **Interested persons may make submissions**

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

42 **Hearings to be in public**

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

43 **Adjournments**

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

44 **Record of proceedings**

The commission shall keep a record of its proceedings.

45 **Evidence**

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

46 Report and recommendations

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

47 Rules of commission

- (1) The commission may, in writing, make rules for the procedure of the commission in an inquiry.
- (2) A rule made under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Part 6 Tax administration

48 Provisions of Taxation Administration Act apply

The provisions of the *Taxation Administration Act 1999*, except for part 9 (Taxation officers, investigation and secrecy provisions), apply in relation to a gaming law as if—

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

49 Commission may perform functions under Commonwealth Act

The commission may exercise the functions of a State taxation officer under the *Taxation Administration Act 1953* (Cwlth), part 3A.

Part 7 Casino control

50 Meaning of *Casino Act* in pt 7

In this part:

Casino Act means the *Casino Control Act 1988*.

51 Functions of commission in relation to *Casino Act*

- (1) The functions of the commission in relation to the *Casino Act* are—
- (a) to supervise the operation of the casino; and
 - (b) to determine the operating times of the casino; and
 - (c) to determine—
 - (i) the games that may be played in the casino; and
 - (ii) the rules under which those games may be played; and
 - (d) to investigate, and make recommendations to the Minister on, the suitability of—
 - (i) a proposed owner of the casino or proposed casino lessee; or
 - (ii) the casino licensee or a person nominated as the proposed casino licensee; or
 - (iii) a person to whom the casino licence is proposed to be assigned; or
 - (iv) a person proposed to be appointed as an administrator for the *Casino Act*, section 51; and
 - (e) to investigate, and make recommendations to the Minister on, matters referred to it by the Minister relating to the control of the casino or of the operations of the casino; and

- (f) of its own motion, to inquire into, and make recommendations to the Minister on, matters relating to the control of the casino or of the operations of the casino; and
 - (g) to make recommendations to the Minister as to the laws that should be made on matters relating to the control of the casino or of the operations of the casino.
- (2) In addition to the functions of the commission under subsection (1), the commission has such other functions as are conferred on it under the Casino Act.

Part 8 Racing

52 Meaning of *Racing Act* in pt 8

In this part:

Racing Act means the *Racing Act 1999*.

53 Functions of commission in relation to **Racing Act**

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

Part 8A Service of documents

53A Service of documents etc on people generally

- (1) A document or anything else that is authorised or required under a gaming law to be served on an individual (whether the word ‘serve’, ‘give’, ‘tell’, ‘send’ or any other word is used) may be served—
 - (a) by giving it to the person; or
 - (b) by letter addressed to the person and sent by prepaid post, fax, email, or in any other way prescribed under the regulations, to the person’s home or business address; or
 - (c) by letter addressed to the person and left at the person’s home or business address with someone who appears to be at least 16 years old and to live at the address.
- (2) A document or anything else that is authorised or required under a gaming law to be served on a corporation (whether the word ‘serve’, ‘give’, ‘tell’, ‘send’ or any other word is used) may be served—
 - (a) by giving it to a person who is or appears to be an executive officer of the corporation; or
 - (b) by letter addressed to the corporation and sent by prepaid post, fax, email, or in any other way prescribed under the regulations, to the address of any of its registered offices or any other business address of the corporation; or
 - (c) by letter addressed to the corporation and left at the address of any of the corporation’s registered offices or any other business address of the corporation with someone who appears to be at least 16 years old and to be employed at the address.
- (3) A document or anything else served under subsection (1) (b) or (2) (b) by post is taken to be served at the time when the letter concerned would have been delivered in the ordinary course of post.

- (4) However, subsection (3) does not affect the operation of the *Evidence Act 1995* (Cwlth), section 160.

Note The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external Territory was received on the 4th working day after posting.

- (5) A document or anything else served under subsection (1) (c) or (2) (c) is taken to be served when it is left as mentioned in the paragraph.
- (6) Despite subsections (1) to (5), the regulations may—
- (a) provide for additional ways of serving (however described) documents or anything else; and
 - (b) provide that a document, or anything else, of a kind prescribed under the regulations may be served (however described) only in the way prescribed under the regulations; and
 - (c) provide for the date (or date and time) when service (however described) of a document or anything else is taken to have been made.
- (7) This section does not apply to the service of a document or anything else on the Minister.
- (8) This section does not affect—
- (a) the operation of any other law that authorises or requires service of a document or anything else except as provided under this section; or
 - (b) the power of a court or tribunal to authorise or require service of a document or anything else except as provided under this section.
- (9) In this section:
- address** includes a fax number, email address, and anything else prescribed under the regulations.

business address, of an individual or a corporation, includes—

- (a) the latest business address of the individual or corporation; and
- (b) any other address of the individual or corporation that is recorded, in a register or other record kept by the commission, as the address for service of the individual or corporation.

home address, of an individual, includes the latest home address of the person (if any) recorded in a register or other records kept by the commission under a gaming law.

53B Serving documents etc on commission

- (1) A document or anything else that is authorised or required under a gaming law to be served on the commission (whether the word ‘serve’, ‘give’, ‘tell’, ‘send’ or any other word is used) may be served—
 - (a) by letter addressed to the commission and sent by prepaid post to the address of any office of the commission; or
 - (b) by letter addressed to the commission and left at the address of any office of the commission with someone who appears to be employed in the office; or
 - (c) by letter addressed to the commission and sent by fax to a fax number, or sent by email to an email address, prescribed under the regulations.
- (2) A document or anything else served under subsection (1) (a) is taken to be served at the time when the letter concerned would have been delivered in the ordinary course of post.
- (3) However, subsection (2) does not affect the operation of the *Evidence Act 1995* (Cwlth), section 160.

Note The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external Territory was received on the 4th working day after posting.

- (4) A document or anything else served under subsection (1) (b) is taken to be served when it is left as mentioned in the paragraph.
- (5) Despite subsections (1) to (4), the regulations may—
 - (a) provide for additional ways of serving (however described) documents or anything else on the commission; and
 - (b) provide that a document, or anything else, of a kind prescribed under the regulations may be served (however described) only in the way prescribed under the regulations; and
 - (c) provide for the date (or date and time) when service (however described) of a document or anything else is taken to be made.
- (6) This section does not affect—
 - (a) the operation of any other law that authorises or requires service of a document or anything else except as provided under this section; or
 - (b) the power of a court or tribunal to authorise or require service of a document or anything else except as provided under this section.

Part 9 Miscellaneous

53C Acts and omissions of representatives

- (1) In this section:

person means an individual.

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

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

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.

- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

53D Approved forms

- (1) The commission may, in writing, approve forms for a gaming law.
- (2) If the commission approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

54 Regulation-making power

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

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Schedule 1 Appointment and terms of office of members of commission

(see s 12 (2))

1 Appointment of the chief executive

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

2 Appointment of ordinary members

- (1) The Minister shall appoint eligible persons to be ordinary members.
- (2) Subject to this clause, a person is eligible if the person—
 - (a) is of good character and has a good reputation in the person's profession or business; and
 - (b) has suitable experience and qualifications to perform the duties of a member.
- (3) A person is not eligible if—
 - (a) the person or the person's domestic partner has an interest in a business subject to a gaming law; or

Note For the meaning of *domestic partner*, see Legislation Act, s 169.

- (b) the person has a close personal association with a person who is not of good character and business reputation; or
- (c) the person has a business or financial association with a person who is not of good character and business reputation; or
- (d) the person has been convicted of an offence against a gaming law or a corresponding law; or

- (e) the person has, within the period of 5 years before the proposed appointment, been convicted of an offence punishable by imprisonment for 12 months or more.
- (4) In this section—
 - (a) a reference to a *conviction* includes a reference to an order made in relation to the person under the *Crimes Act 1900*, section 402; and
 - (b) a reference to a *corresponding law* is a reference to a law of another jurisdiction, whether within or outside Australia, that regulates gaming or racing.
- (5) An ordinary member shall be appointed on a part-time basis.

3 Appointment of chairperson

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

4 Acting appointments

- (1) Subject to this section, the Minister may appoint an eligible person to act in the place of a member when the member is for any reason unable or unavailable to act in that member's capacity.
- (2) An appointment under this section shall not authorise a person to act for a continuous period of more than 6 months.
- (3) Anything done by or in relation to a person purporting to act under this section is not invalid merely because—
 - (a) the occasion to act had not arisen or had ceased; or
 - (b) there was a defect or irregularity in an appointment; or
 - (c) the appointment had ceased to have effect.

5 Term of office

- (1) A member of the commission (other than the chief executive) is appointed for the term of office, not exceeding 3 years, specified in the instrument of appointment.
- (2) A member of the commission is eligible for reappointment.

6 Removal of members

- (1) The Minister shall terminate the appointment of a member of the commission if the member—
 - (a) resigns by giving written notice to the Minister; or
 - (b) ceases to be eligible for membership in the relevant capacity; or
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of remuneration for their benefit; or
 - (d) fails to disclose an interest as required by clause 9.
- (2) The Minister may terminate the appointment of a member of the commission for misbehaviour or physical or mental incapacity.

7 Remuneration and allowances

- (1) A member of the commission shall be paid such remuneration and allowances as are prescribed in the regulations.
- (2) Subsection (1) does not apply—
 - (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the member; or
 - (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the member.

(3) In this section:

determination means a determination under the *Remuneration tribunal Act 1995*.

8 Leave of absence

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

9 Disclosure of interests

- (1) This section applies where a member has or acquires an interest that could conflict with the member's proper performance of his or her functions as a member of the commission.
- (2) A member shall inform the commission and the Minister when it becomes apparent that this section applies in relation to the member.
- (3) The Minister may make such acting appointments as are necessary to allow the commission to make a decision or take an action in the case without the member concerned.

Schedule 2 Meetings

(see s 13)

- 1 The commission shall hold such meetings as are necessary for the efficient performance of its functions.
- 2 Subject to this clause, meetings of the commission shall be held at such times and places as the commission from time to time determines.
- 3 The chairperson may at any time convene a meeting of the commission.
- 4 The chairperson shall preside at all meetings of the commission.
- 5 At a meeting of the commission—
 - (a) the chairperson and 2 other members constitute a quorum; and
 - (b) a question shall be decided by a majority of the votes of the members present and voting; and
 - (c) the chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- 6 The commission shall keep minutes of its proceedings.
- 7 To remove any doubt, a member of the commission who has taken part in a decision to reprimand a person under a gaming law is not prevented from taking part in a decision about whether further disciplinary action should be taken under that law for contravention of a direction included in the reprimand, only because the member took part in the decision to give the reprimand.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

| | |
|--|--|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | par = paragraph/subparagraph |
| cl = clause | pres = present |
| def = definition | prev = previous |
| dict = dictionary | (prev...) = previously |
| disallowed = disallowed by the Legislative Assembly | pt = part |
| div = division | r = rule/subrule |
| exp = expires/expired | reg = regulation/subregulation |
| Gaz = Gazette | renum = renumbered |
| hdg = heading | reloc = relocated |
| IA = Interpretation Act 1967 | R[X] = Republication No |
| ins = inserted/added | RI = reissue |
| LA = Legislation Act 2001 | s = section/subsection |
| LR = legislation register | sch = schedule |
| LRA = Legislation (Republication) Act 1996 | sdiv = subdivision |
| mod = modified/modification | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

3 Legislation history

Gambling and Racing Control Act 1999 No 46

notified 17 September 1999 (Gaz 1999 No S54)
s 1, s 2 commenced 17 September 1999 (s 2 (1))
remainder commenced 1 December 1999 (s 2 (2) and Gaz 1999
No S63)

as amended by

**Gambling Legislation Amendment Act 1999 No 56 sch 3 (as am by
2000 No 80 amdt 3.5)**

notified 10 November 1999 (Gaz 1999 No 45)
s 1, s 2 commenced 10 November 1999 (s 2 (1))
sch 3 commenced 1 December 1999 (s 2 (2) and Gaz 1999 No S63)

Statute Law Amendment Act 2000 No 80 amdt 1.1

notified 21 December 2000 (Gaz 2000 No S69)
s 1, s 2 commenced 21 December 2000 (IA s 10B)
amdt 1.1 taken to have commenced 1 December 1999 (s 2 (2),
amdt 1.1)

Legislation (Consequential Amendments) Act 2001 No 44 pt 161

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 161 commenced 12 September 2001 (s 2 and see Gaz 2001
No S65)

Race and Sports Bookmaking Act 2001 No 49 sch 2 pt 3

notified 12 July 2001 (Gaz 2001 No 28)
s 1, s 2 commenced 12 July 2001 (IA s 10B)
sch 2 pt 3 commenced 7 September 2001 (s 2 and Gaz 2001 No S68)

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003
A2003-14 sch 1 pt 1.17**

notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))
sch 1 pt 1.17 commenced 28 March 2003 (s 2)

Endnotes

4 Amendment history

Australian Crime Commission (ACT) Act 2003 A2003-58 sch 1 pt 1.2

notified LR 17 December 2003

s 1, s 2 commenced 17 December 2003 (LA s 75 (1))

sch 1 pt 1.2 commenced 17 June 2004 (s 2 and LA s 79)

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.16

notified LR 19 March 2004

s 1, s 2 commenced 19 March 2004 (LA s 75 (1))

sch 1 pt 1.16 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.18, sch 2 pt 2.40

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 1 pt 1.18, sch 2 pt 2.40 commenced 9 April 2004 (s 2 (1))

Gaming Machine Act 2004 A2004-34 sch 2

notified LR 9 July 2004

s 1, s 2 commenced 9 July 2004 (LA s 75 (1))

sch 2 commenced 1 November 2004 (s 2 and CN2004-14)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.1866

Definitions for Act

s 3 def *annual report* ins A2004-9 amdt 1.23
def *executive officer* ins 2001 No 49 amdt 2.19
def *gaming law* am A2004-34 amdt 2.1
def *penalty unit* om 2001 No 49 amdt 2.20
def *reciprocating jurisdiction* am A2004-34 amdt 2.2

Gaming laws

s 4 am 2001 No 44 amdts 1.1867-1.1869; 2001 No 49
amdts 2.21-2.23; A2004-34 amdt 2.3

Establishment, functions and powers of commission

div 2.1 hdg (prev pt 2 div 2 hdg) renum R1 LA

Functions of commission

s 6 am 2001 No 44 amdt 1.1870, amdt 1.1871

Constitution of commission

div 2.2 hdg (prev pt 2 div 2 hdg) renum R1 LA

Annual report

s 16 om A2004-9 amdt 1.24

Monitoring and research

div 3.1 hdg (prev pt 3 div 1 hdg) renum R1 LA

Dealing with social effects of gambling

div 3.2 hdg (prev pt 3 div 2 hdg) renum R1 LA

Authorised officers

div 4.1 hdg (prev pt 4 div 1 hdg) renum R1 LA

Powers of investigation

div 4.2 hdg (prev pt 4 div 2 hdg) renum R1 LA

Commission may require records to be kept

s 22A ins 2001 No 49 amdt 2.24

Failing to comply with requirement of authorised officer

s 28 hdg sub A2004-15 amdt 2.89
s 28 am A2004-15 amdt 2.90; ss renum R4 LA (see A2004-15
amdt 2.91)

Impersonating authorised officer

s 29 om A2004-15 amdt 2.92

Cooperation with other jurisdictions

div 4.3 hdg (prev pt 4 div 3 hdg) renum R1 LA

Secrecy

div 4.4 hdg (prev pt 4 div 4 hdg) renum R1 LA

Gaming officers shall respect confidentiality

s 35 am 2001 No 44 amdt 1.1872, amdt 1.1873

Permitted disclosures to particular persons

s 37 am A2003-58 amdt 1.2

Rules of commission

s 47 am 2001 No 44 amdt 1.1874, amdt 1.1875

Provisions of Taxation Administration Act apply

s 48 am 2001 No 49 amdt 2.25

Functions of commission in relation to Casino Act

s 51 am 1999 No 56 s 90 sch 3 (as am 2000 No 80 amdt 3.5)

Service of documents

pt 8A hdg ins 2001 No 49 amdt 2.26

Endnotes

5 Earlier republications

Service of documents etc on people generally

s 53A ins 2001 No 49 amdt 2.26

Serving documents etc on commission

s 53B ins 2001 No 49 amdt 2.26

Acts and omissions of representatives

s 53C ins 2001 No 49 amdt 2.27
sub A2004-15 amdt 1.22

Approved forms

s 53D ins 2001 No 44 amdt 1.1876
(4)-(7) exp 12 September 2002 (s 53D (7))

Regulation-making power

s 54 sub 2001 No 44 amdt 1.1876

Appointment of ordinary members

sch 1 cl 2 am A2003-14 amdt 1.60, amdt 1.61

Term of office

sch 1 cl 5 am 2000 No 80 amdt 1.1

Meetings

sch 2 cl 7 am A2004-34 amdt 2.4

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to | Republication date |
|------------------|----------------|--------------------|
| 1 | Act 2001 No 49 | 12 September 2001 |
| 2 | Act 2001 No 49 | 13 September 2002 |
| 3 | A2003-14 | 28 March 2003 |
| 4 | A2004-15 | 9 April 2004 |
| 5 | A2004-15 | 13 April 2004 |
| 6 | A2004-15 | 17 June 2004 |

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