



Australian Capital Territory

# **Gambling and Racing Control Act 1999**

**A1999-46**

**Republication No 13**

**Effective: 22 March 2010 – 30 June 2011**

Republication date: 22 March 2010

Last amendment made by A2009-39

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 22 March 2010. It also includes any amendment, repeal or expiry affecting the republished law to 22 March 2010.

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](http://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 includes 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

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Gambling and Racing Control Act 1999

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Australian Capital Territory

# Gambling and Racing Control Act 1999

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

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Gambling and Racing Control Act 1999*.

### 2 Dictionary

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

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

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

### 3 Notes

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

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

### 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 2006*;
- (d) the *Gaming Machine Act 2004*;
- (e) the *Interactive Gambling Act 1998*;
- (f) the *Lotteries Act 1964*;
- (g) the *Pool Betting Act 1964*;



- (h) the *Race and Sports Bookmaking Act 2001*;
- (i) the *Racing Act 1999*;
- (j) the *Unlawful Gambling Act 2009*.

*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, s 104).

## **Part 2 The commission**

*Note for pt 2*

The governance of territory authorities, including the commission, is regulated by the *Financial Management Act 1996* (the *FMA*), pt 9 as well as the Act that establishes them.

The FMA, pt 9 deals, for example, with the corporate status of territory authorities and their powers, the make-up of governing boards, the responsibilities of the governing board and board members, how governing board positions can be ended, meetings of governing boards and conflicts of interest.

### **Division 2.1 Establishment and functions of commission**

#### **5 Establishment of gambling and racing commission**

The ACT Gambling and Racing Commission (the *commission*) is established.

#### **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 ACT; and
  - (c) to exercise any other function given to the commission under this Act or any other territory law.

*Note* A provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196).

- (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 people in relation to gaming and racing, for the purpose of exercising functions 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 exercise 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.
- (5) A direction given under subsection (3) (b) must be included in the annual report of the commission.

## **7 How commission must exercise its functions**

The commission must exercise 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 exercising its functions of reviewing legislation and policies 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.

## 10 Delegation

The commission may delegate the commission's functions under this Act or another territory law to a public servant.

*Note* For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

## Division 2.2 Governing board

### 11 Establishment of governing board

The commission has a governing board.

*Note* An appointment of a governing board member is an appointment under this section (see *Financial Management Act 1996*, s 78 (5) (b)).

### 12 Governing board members

- (1) The governing board has 5 members, of whom 1 must have knowledge, experience or qualifications related to providing counselling services to problem gamblers.

*Note 1* The chair and deputy chair of the governing board must be appointed under the *Financial Management Act 1996*, s 79.

*Note 2* The chief executive officer of the authority is a member of the board (see *Financial Management Act 1996*, s 80 (4)).

- (2) A person is not eligible to be a member 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 the Legislation Act, s 169.

- (b) the person would be unlikely to be able to properly exercise the functions of a member because of the person's business association, financial association or close personal association with someone else; or

- (c) the person has been convicted or found guilty of an offence against a gaming law or a corresponding law; or
  - (d) within 5 years before the proposed appointment, the person has been convicted, or found guilty, of an offence in Australia punishable by imprisonment for at least 1 year; or
  - (e) within 5 years before the proposed appointment, the person has been convicted, or found guilty, of an offence outside Australia that, if it had been committed in the ACT, would have been punishable by imprisonment for at least 1 year.
- (3) In this section:

*corresponding law* means a law of another jurisdiction, whether in or outside Australia, that regulates gaming or racing.

### 13            **Chief executive officer of commission**

The chief executive officer of the commission must be a public servant.

*Note*        A chief executive officer must be appointed under the *Financial Management Act 1996*, s 80 (2) and (3).

### 14            **Staff**

The commission's staff must be employed under the *Public Sector Management Act 1994*.

*Note*        The *Public Sector Management Act 1994*, s 24 provides that the chief executive officer of a territory instrumentality has all the powers of a chief executive under the Act in relation to the instrumentality staff to be employed under that Act (including, for example, in relation to the appointment of people to, or the employment of people for, that staff). Under that Act, dict, def *chief executive officer*, the chief executive officer of an instrumentality is the person who has responsibility for managing its affairs.

**15            Consultants and contractors**

- (1) The commission may engage consultants and contractors.
- (2) However, the commission must not enter into a contract of employment under this section.

## **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 ACT, 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 ACT.
- (3) The Minister, or a resolution of the Assembly, may require the commission to address particular matters when exercising 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 present a report under this section to the Assembly within 14 sitting days after receiving it.

### **Division 3.2** Dealing with social effects of gambling

#### **18** Code of practice

- (1) A regulation may prescribe 1 or more codes of practice to apply to specified classes of people 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 the gambler originally intended, such as automatic teller machines, credit facilities and allowing people 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 people 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.

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

## **Part 4 Powers of investigation**

### **Division 4.1 Authorised officers**

#### **20 Authorised officers**

- (1) The members of the governing board are authorised officers.
- (2) The chief executive officer may appoint a person to be an authorised officer.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (3) The chief executive may, in writing, recognise a person engaged in the administration or enforcement of a gaming law of a reciprocating jurisdiction as an authorised officer for this subsection.
- (4) If the chief executive recognises a person for subsection (3), the person is an authorised officer for the period and purpose stated in the recognition of the person.
- (5) A gaming officer to whom the chief executive officer delegates functions under division 4.2 is an authorised officer.

#### **21 Identity cards for authorised officers**

- (1) An authorised officer must 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 must 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) If a notice to a person under subsection (1) is made to determine that person's tax liability, the notice must 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 must 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 must not, without reasonable excuse, 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 about the giving of evidence or how 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 must be paid expenses in accordance with the scale of allowances determined under the *Taxation Administration Act 1999*, section 139 for that Act, section 82 (5).
- (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.

## 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 give information, including information about 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 the assistance and facilities that 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 the officer produces his or her identity card to the occupier.
- (3) The powers of entry and inspection under this section must 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 officer 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 an offence against a gaming law, 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 the force that 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 given by this section are in addition to, and not in derogation of, any other powers given 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 kept 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 decision to be made about whether subsection (3) applies.
- (3) If the document is required by the commission as evidence for a legal proceeding, it may be kept until the proceeding is finally decided.
- (4) The commission must 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 kept for as long as is reasonably necessary to enable it to be inspected and for a decision to be made about whether subsection (3) applies.
- (3) If the thing is required by the commission as evidence for a legal proceeding, it may be kept until the proceeding is finally decided.
- (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 cannot return it to the owner within 12 months despite reasonable efforts to do so (for example, because the owner has left the ACT), the commission may direct that the thing be disposed of by auction and the proceeds held for the owner instead of the thing.

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

- (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 in relation 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 must not, without reasonable excuse, 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) If 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 must 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 written request of an officer of that jurisdiction who exercises 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 functions under or in relation to a gaming law.

### **35 Gaming officers must respect confidentiality**

- (1) A person who is or has been a gaming officer must 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 must 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 for an oath or affirmation, the form must be used.

- (4) For subsection (2), information disclosed to the commission by a person exercising a function 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 about 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 people 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 people**

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, or to a person authorised to receive the information by any of the following:
  - (i) for the purpose of the administration or enforcement of a gaming law of a reciprocating jurisdiction—a person who, or authority that, exercises functions under that law;
  - (ii) the auditor-general;
  - (iii) the Australian Competition and Consumer Commission;
  - (iv) the Australian Crime Commission;
  - (v) the Australian Federal Police;
  - (vi) the Australian Securities and Investments Commission;
  - (vii) the Australian statistician;

- (viii) the Australian Transaction Reports and Analysis Centre (AUSTRAC);
  - (ix) the chief police officer;
  - (x) the commissioner for revenue;
  - (xi) the Commissioner of Taxation of the Commonwealth;
  - (xii) the Commonwealth Department of Immigration;
  - (xiii) the Commonwealth Services Delivery Agency (Centrelink);
  - (xiv) the ombudsman;
  - (xv) the police force or service of a State;
- Note* *State* includes the Northern Territory (see Legislation Act, dict, pt 1).
- (xvi) an authority or agency of a State that is responsible for collecting or receiving taxation revenue of the State;
  - (xvii) a person prescribed by regulation; or
- (e) in accordance with section 31.

### **38 Prohibition on secondary disclosures of information**

A person must 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 to enable the person to exercise a function given to 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 must 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 must 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 considers appropriate.

### **41           Interested people may make submissions**

The commission must give any entity 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 must be heard in public unless the commission, for good reason, decides otherwise.

### **43           Adjournments**

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

### **44           Record of proceedings**

The commission must keep a record of its proceedings.

### **45           Evidence**

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



**46 Report and recommendations**

- (1) The commission must report its findings in an inquiry, other than an inquiry mentioned in subsection (2), to the Minister and may make recommendations on its findings.
- (2) If a gaming law requires the commission to make an inquiry before taking a specified action, the commission must report its findings in the annual report.
- (3) The Minister must present 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.

## 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 exercise 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                      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).

**53CA Protection for authorised officers**

- (1) This section applies to an authorised officer who is not a member of the governing board.

*Note* Members of governing boards are protected from liability under the *Financial Management Act 1996*, s 90.

- (2) The authorised officer is not civilly liable for anything done or omitted to be done honestly and without recklessness—
  - (a) for the purpose of administering or enforcing a territory gaming law; or
  - (b) for the purpose of administering or enforcing a gaming law of a reciprocating jurisdiction under division 4.3; or
  - (c) in the reasonable belief that the act or omission was for a purpose mentioned in paragraph (a) or (b).
- (3) Any liability that would, apart from this section, attach to the authorised officer attaches instead to the commission.

**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.

**54 Regulation-making power**

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

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

- (2) A regulation may prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 10 penalty units for offences against a regulation.

## Dictionary

(see s 2)

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

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACT
- exercise
- function
- under.

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

***authorised officer*** means a person who is an authorised officer under section 20.

***casino*** means the casino under the *Casino Control Act 2006*.

***chief executive officer*** means the chief executive officer of the commission.

***code of practice***—see section 18.

***commission*** means the Gambling and Racing Commission.

***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 conducting or playing a game of chance, or of mixed chance and skill, in which money or any other valuable thing is offered as a prize or is staked or risked (by a participant or someone else) on 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***—

- (a) for this Act generally—means any of the following:
  - (i) a member of the governing board;
  - (ii) any other authorised officer;
  - (iii) anyone else engaged (whether as an officer or employee or otherwise) in the administration or enforcement of a gaming law; and
- (b) for division 4.4 (Secrecy)—see section 34.

***governing board*** means the governing board of the commission.

***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.

## Endnotes

1 About the endnotes

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## 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

3 Legislation history

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**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)

**Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.8**

notified LR 26 October 2005

s 1, s 2 commenced 26 October 2005 (LA s 75 (1))

sch 1 pt 1.8 commenced 1 January 2006 (s 2 (2))

**Casino Control Act 2006 A2006-2 sch 1 pt 1.1**

notified LR 22 February 2006

s 1, s 2 commenced 22 February 2006 (LA s 75 (1))

sch 1 pt 1.1 commenced 1 May 2006 (s 2 and CN2006-6)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.51**

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.51 commenced 12 April 2007 (s 2 (1))

**Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.16**

notified LR 20 June 2007

s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))

sch 3 pt 3.16 commenced 11 July 2007 (s 2 (1))

**Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.28**

notified LR 12 August 2008

s 1, s 2 commenced 12 August 2008 (LA s 75 (1))

sch 3 pt 3.28 commenced 26 August 2008 (s 2)

**Unlawful Gambling Act 2009 A2009-39 sch 2 pt 2.1**

notified LR 17 November 2009

s 1, s 2 commenced 17 November 2009 (LA s 75 (1))

sch 2 pt 2.1 commenced 22 March 2010 (s 2 and CN2010-2)

**4 Amendment history****Name of Act**

s 1 sub A2005-52 amdt 1.111

**Dictionary**s 2 om 2001 No 44 amdt 1.1866  
ins A2005-52 amdt 1.114**Notes**s 3 defs reloc to dict A2005-52 amdt 1.113  
sub A2005-52 amdt 1.114  
def **casino** om A2005-52 amdt 1.112  
def **commission** om A2005-52 amdt 1.112  
def **gaming officer** om A2005-52 amdt 1.112  
def **penalty unit** om 2001 No 49 amdt 2.20**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; A2006-2 amdt 1.1;  
A2009-39 amdt 2.1, amdt 2.2; pars renum R13 LA**The commission**

pt 2 hdg am A2005-52 amdt 1.115

**Establishment and functions of commission**div 2.1 hdg (prev pt 2 div 2 hdg) renum R1 LA  
sub A2005-52 amdt 1.116**Establishment of gambling and racing commission**

s 5 sub A2005-52 amdt 1.117

## Endnotes

### 4 Amendment history

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#### **Functions of commission**

s 6 am 2001 No 44 amdt 1.1870, amdt 1.1871; A2005-52  
amdt 1.118

#### **Powers of commission**

s 9 om A2005-52 amdt 1.119

#### **Delegation**

s 10 sub A2007-16 amdt 3.65

#### **Governing board**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R1 LA  
sub A2005-52 amdt 1.121

#### **Establishment of governing board**

s 11 om A2005-52 amdt 1.120  
ins A2005-52 amdt 1.122  
am A2008-28 amdt 3.92

#### **Governing board members**

s 12 sub A2005-52 amdt 1.122

#### **Chief executive officer of commission**

s 13 om A2005-52 amdt 1.123  
ins A2005-52 amdt 1.122

#### **Staff**

s 14 sub A2005-52 amdt 1.124  
am A2007-3 amdt 3.283

#### **Consultants and contractors**

s 15 sub A2005-52 amdt 1.124

#### **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

#### **Authorised officers**

s 20 sub A2005-52 amdt 1.125

#### **Powers of investigation**

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

#### **Search warrant**

s 24 am A2005-54 amdt 1.126

**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 must respect confidentiality**

s 35 am 2001 No 44 amdt 1.1872, amdt 1.1873

**Permitted disclosures to particular people**

s 37 am A2003-58 amdt 1.2; A2009-39 amdt 2.3

**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

**Miscellaneous**pt 7 hdg orig pt 7 hdg om A2006-2 amdt 1.2  
(prev pt 9 hdg) renum A2006-2 amdt 1.3**Meaning of *Casino Act* in pt 7**

s 50 om A2006-2 amdt 1.2

**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)  
om A2006-2 amdt 1.2**Racing**

pt 8 hdg om A2006-2 amdt 1.2

**Meaning of *Racing Act* in pt 8**

s 52 om A2006-2 amdt 1.2

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

s 53 om A2006-2 amdt 1.2

**Service of documents**pt 8A hdg ins 2001 No 49 amdt 2.26  
om A2006-2 amdt 1.2

## Endnotes

4 Amendment history

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### **Service of documents etc on people generally**

s 53A ins 2001 No 49 amdt 2.26  
om A2006-2 amdt 1.2

### **Serving documents etc on commission**

s 53B ins 2001 No 49 amdt 2.26  
om A2006-2 amdt 1.2

### **Miscellaneous**

pt 9 hdg renum as pt 7 hdg

### **Acts and omissions of representatives**

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

### **Protection for authorised officers**

s 53CA ins A2005-52 amdt 1.127

### **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 and terms of office of members of commission**

sch 1 om A2005-52 amdt 1.128

### **Appointment of ordinary members**

s 1.2 am A2003-14 amdt 1.60, amdt 1.61  
om A2005-52 amdt 1.128

### **Term of office**

s 1.5 am 2000 No 80 amdt 1.1  
om A2005-52 amdt 1.128

### **Meetings**

sch 2 om A2005-52 amdt 1.128

### **Meetings**

s 2.7 am A2004-34 amdt 2.4  
om A2005-52 amdt 1.128

### **Dictionary**

dict ins A2005-52 amdt 1.129  
def **annual report** ins A2004-9 amdt 1.23  
reloc from s 3 A2005-52 amdt 1.113  
def **authorised officer** ins A2005-52 amdt 1.129  
def **casino** ins A2005-52 amdt 1.129  
sub A2006-2 amdt 1.4  
def **chief executive officer** ins A2005-52 amdt 1.129  
def **code of practice** reloc from s 3 A2005-52 amdt 1.113

def **commission** ins A2005-52 amdt 1.129  
 def **executive officer** ins 2001 No 49 amdt 2.19  
 reloc from s 3 A2005-52 amdt 1.113  
 def **gaming** reloc from s 3 A2005-52 amdt 1.113  
 sub A2009-39 amdt 2.4  
 def **gaming equipment** reloc from s 3 A2005-52 amdt 1.113  
 def **gaming law** am A2004-34 amdt 2.1  
 reloc from s 3 A2005-52 amdt 1.113  
 def **gaming officer** ins A2005-52 amdt 1.129  
 sub A2008-28 amdt 3.93  
 def **governing board** ins A2005-52 amdt 1.129  
 def **inquiry** reloc from s 3 A2005-52 amdt 1.113  
 def **racing** reloc from s 3 A2005-52 amdt 1.113  
 def **reciprocating jurisdiction** am A2004-34 amdt 2.2  
 reloc from s 3 A2005-52 amdt 1.113

## 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. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R0A 13 Feb 2006	1 Dec 1999– 20 Dec 2000	A1999-56	amendments by A1999-56
R0B 13 Feb 2006	21 Dec 2000– 6 Sept 2001	A2000-80	amendments by A2000-80
R1 2 Nov 2001	12 Sept 2001– 12 Sept 2002	A2001-49	amendments by A2001-44 and A2001-49
R2 13 Sept 2002	13 Sept 2002– 27 Mar 2003	A2001-49	commenced expiry
R3 28 Mar 2003	28 Mar 2003– 8 Apr 2004	A2003-14	amendments by A2003-14

## Endnotes

### 5 Earlier republications

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<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R4 9 Apr 2004	9 Apr 2004– 12 Apr 2004	A2004-15	amendments by A2004-15
R5 13 Apr 2004	13 Apr 2004– 16 June 2004	A2004-15	amendments by A2004-9
R6 17 June 2004	17 Jun 2004– 31 Oct 2004	A2004-15	amendments by A2003-58
R7 1 Nov 2004	1 Nov 2004– 31 Dec 2005	A2004-34	amendments by A2004-34
R8 1 Jan 2006	1 Jan 2006– 30 Apr 2006	A2005-52	amendments by A2005-52
R9 1 May 2006	1 May 2006– 11 Apr 2007	A2006-2	amendments by A2006-2
R10 12 Apr 2007	12 Apr 2007– 10 July 2007	A2007-3	amendments by A2007-3
R11 11 July 2007	11 July 2007– 25 Aug 2008	A2007-16	amendments by A2007-16
R12* 26 Aug 2008	26 Aug 2008– 21 Mar 2010	A2008-28	amendments by A2008-28

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