



AUSTRALIAN CAPITAL TERRITORY

# Gambling Legislation Amendment Act 1999

No. 56 of 1999

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**CONTENTS**—continued

Section

SCHEDULE 3  
AMENDMENT OF THE GAMBLING AND RACING  
CONTROL ACT 1999



AUSTRALIAN CAPITAL TERRITORY

# Gambling Legislation Amendment Act 1999

No. 56 of 1999

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**An Act to amend the *Casino Control Act 1988*, the *Gaming Machine Act 1987* and the *Interactive Gambling Act 1998*, and for related purposes**

*[Notified in ACT Gazette No. 45: 10 November 1999]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

## PART 1—PRELIMINARY

### 1 Name of Act

This Act is the *Gambling Legislation Amendment Act 1999*.

### 2 Commencement

(1) Section 1 and this section commence on the day this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day or days fixed by the Minister by notice in the *Gazette*.

(3) However, if a provision has not commenced within 6 months after the day the *Gambling and Racing Control Act 1999* is notified in the *Gazette*, it commences on the first day after that period, immediately after the commencement of any provision that commences on that day under subsection 2 (3) of the *Gambling and Racing Control (Consequential Provisions) Act 1999*.

## **PART 2—AMENDMENTS OF THE CASINO CONTROL ACT 1988**

### **3 Act amended**

This Part amends the *Casino Control Act 1988*.

### **4 Insertion**

After section 2 the following section is inserted:

#### **“2A Incorporation of the Gambling and Racing Control Act 1999**

The *Gambling and Racing Control Act 1999* is incorporated and is read as one with this Act.”.

### **5 Interpretation**

Section 3 is amended

- (a) by omitting “(1) In this Act, unless the contrary intention appears—” and substituting “In this Act, the following definitions apply unless the contrary intention appears.”; and
- (b) by omitting from paragraph (a) of the definition of *casino lease* in subsection (1) “developer or proprietor” and substituting “owner”; and
- (c) by omitting from paragraph (a) of the definition of *casino operation agreement* in subsection (1) “developer, proprietor” and substituting “owner”; and
- (d) by omitting paragraphs (b) and (c) from the definition of *involved person* in subsection (1) and substituting the following paragraph:
  - “(b) an owner; or”;and
- (e) by inserting after paragraph (g) of the definition of *operation* in subsection (1) the following paragraph:
  - “(ga) the keeping and storage of records; or”;and
- (f) by omitting from subsection (1) the definitions of *authorised police officer*, *developer*, *development agreement*, *investigator* and *proprietor*; and



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- (g) by omitting from subsection (1) the definitions of *casino*, *casino licensee*, *control agreement*, *inspector* and *owner* and substituting the following definitions:

“*casino* means the area designated under section 4.

*casino licensee* means the corporation that holds the casino licence.

*control agreement*—see section 43.

*inspector* means an authorised officer under the *Gambling and Racing Control Act 1999*.

*owner*—see section 3A.”; and

- (h) by inserting the following definitions in subsection (1):

“*approved schedule of opening times* means the approved schedule mentioned in section 62.

*approved system*—see section 60A.

*censure*—see section 48.

*disciplinary action*—see section 48.

*excluded person*—see section 65.

*grounds for disciplinary action*—see section 48B.

*group*—see section 112 of the *Taxation Administration Act 1998*.

*influential person*—see section 3D.

*prescribed identity document*, for an individual, means a document that—

- (a) contains information that indicates that the individual showing it is more than 18 years old; and
- (b) contains a photo that could reasonably be thought to be of the individual displaying it; and
- (c) is one of the following:
  - (i) a licence issued under the *Motor Traffic Act 1936*;
  - (ii) a proof of age card issued under the *Liquor Act 1975*;

(iii) a document equivalent to a document referred to in subparagraph (i) or (ii) that has been issued in a State or another Territory;

(iv) a passport.

**respectable**—see section 3C.

**suitable**—see section 3B.”; and

(i) by omitting subsections (1A), (2), (3), (4) and (5).

## **6 Insertion**

After section 3 the following sections are inserted in Part 1:

### **“3A Owners**

In this Act—

- (a) a reference to **an owner** of the casino is a reference to a person who, alone or jointly with others, is the lessee of a parcel of land on which the casino, or part of the casino, is located; and
- (b) a reference to **the owner** of the casino is a reference to all such persons.

### **“3B Suitability**

“(1) A corporation is **suitable** to be the casino licensee only if—

- (a) it is respectable; and
- (b) each influential person of the corporation is respectable; and
- (c) it has or can readily obtain—
  - (i) the financial resources; and
  - (ii) the services of competent individuals;necessary to operate the casino successfully and free of any corrupt influences, in accordance with this Act.

“(2) A person is **suitable** to be an owner of the casino only if—

- (a) the person is respectable; and
- (b) if the person is a corporation—each influential person of the corporation is respectable; and
- (c) the person has the capacity properly to fulfil the person’s obligations as an owner under this Act.

“(3) A corporation is **suitable** to be the lessee of the casino only if—

- (a) it is respectable; and

- (b) each influential person of the corporation is respectable; and
- (c) it has the capacity properly to fulfil its obligations as the lessee under this Act.

**“3C Respectability**

- (1) Subject to this section, a corporation is *respectable* if —
- (a) it has a good business reputation; and
  - (b) it is in a sound financial position and has not operated with inadequate financial resources; and
  - (c) it does not have business or financial arrangements with a person that is not respectable.
- “(2) Subject to this section, an individual is *respectable* if he or she—
- (a) has a reputation for good character; and
  - (b) he or she has a good business reputation; and
  - (c) is in a sound financial position; and
  - (d) does not have business or financial arrangements with a person that is not respectable.
- “(3) A person is not respectable if the person has been convicted within the previous 5 years, whether in the Territory or elsewhere, of an offence—
- (a) involving fraud or dishonesty; or
  - (b) that is punishable by a term of imprisonment; or
  - (c) against a gaming law of the Territory or a similar law of another jurisdiction.

**“3D Influential persons**

- “(1) In this Act, each of the following is an *influential person* of a corporation:
- (a) a secretary, director or senior manager of the corporation;
  - (b) a related corporation;
  - (c) a secretary, director or senior manager of a related corporation;
  - (d) an influential owner;
  - (e) an apparently influential person.

“(2) In this section, in relation to a corporation—

***apparently influential person*** means a person who, it appears to the commission, has the capacity, by informal means or connections, to have as much influence over the actions of the corporation as a person mentioned in paragraphs (1) (a) to (d).

***influential owner*** means a person who, whether directly or through intermediary corporate ownership or nominees—

- (a) is able to control 5% of the votes at an annual general meeting of the corporation; or
- (b) is able to control the appointment of a director of the corporation.

***related corporation*** means a related body corporate under the Corporations Law.

***senior manager*** means a person who has substantial responsibility in the management of the corporation.

“3E **References to offences against this Act**

In this Act, unless the contrary intention appears, a reference to an offence against a provision of this Act (the ***primary offence***) includes a reference to an offence against Part 8 of the *Crimes Act 1900* that relates to the primary offence.”.

**7 Substitution**

Section 4 is repealed and the following section substituted:

“4 **Designation of casino**

The Minister may by regulation designate an area to be the casino for this Act.”.

**8 Repeal**

Section 6 is repealed.

**9 Substitution**

Section 12 is repealed and the following section substituted:

“12 **Identity card for the Chief Casino Inspector**

The identity card issued for the Chief Casino Inspector under the *Gambling and Racing Control Act 1999* must indicate that the holder is the Chief Casino Inspector.”

**10 Powers**

Section 14 is amended by omitting paragraphs (3) (c) and (d) and substituting the following paragraph:

“(c) an owner;”.

**11 Liability for fee and taxes—suspension of licence**

Section 17 is amended by omitting from paragraph (b) “Territory” and substituting “commission”.

**12 Repeal**

Division 4 of Part 2 is repealed.

**13 Substitution**

Part 4 is repealed and the following Part substituted:

**“PART 4—CONTROL AGREEMENT**

**“41 Owner of the casino**

“(1) An owner of the casino must not sell or otherwise dispose of the owner’s share of the lease, or a part of that share, except to a person approved in writing by the Minister.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

“(2) The Minister must not approve a person for the purposes of subsection (1) unless satisfied, on advice from the commission, that—

- (a) each influential person in relation to the person has been identified; and
- (b) the person and each influential person is respectable; and
- (c) on the transfer of ownership, the person will become a party to a control agreement.

**“42 Commission must make a control agreement**

“(1) The Minister must ensure that there is a control agreement in place at all times between the Minister and the owner of the casino.

“(2) The terms of the control agreement may be varied by agreement between the Minister and the owner of the casino.

“(3) The Minister must not enter a control agreement, or a variation of a control agreement, unless satisfied, on the advice of the commission, that it is appropriate.

“(4) The Minister must cause a notification of the making or variation of a control agreement to be published in the *Gazette*.

“43 **Control agreement**

In this Act—

***control agreement*** means an agreement between the Minister and the owner of the casino that deals with—

- (a) the nomination of the casino licensee; and
- (b) leasing the casino to another person; and
- (c) the control and operation of the casino; and
- (d) such other matters as the Minister considers necessary or desirable.”.

**14 Grant of casino licence**

Section 45 is amended—

- (a) by omitting subsections (1), (1A), (2) and (3) and substituting the following subsections:

“(1) The Minister may grant a single licence under this section (the ***casino licence***).

“(2) The Minister must not grant the licence to a person unless—

- (a) the person is a corporation that has been nominated by—
  - (i) if there is a casino lease—the casino lessee; or
  - (ii) otherwise—the owner; and
- (b) the Minister is satisfied, on the advice of the commission, that the person is suitable to be the casino licensee.”; and

- (b) by omitting subsection (7).

**15 Insertion**

After section 45 the following section is inserted:

“45A **Casino licensee must comply with code of practice**

The casino licensee must comply with the relevant code of practice (if any) prescribed under the *Gambling and Racing Control Act 1999*.”.

**16 Substitution**

Sections 48, 48A and 49 are repealed and the following sections substituted:

**“48 Commission may take disciplinary action against casino licensee**

“(1) If the commission is satisfied that grounds for disciplinary action exist, the commission may take any of the following *disciplinary actions* that it thinks appropriate against the casino licensee:

- (a) issue a censure;
- (b) impose conditions on, or vary the conditions of, the licence;
- (c) impose a monetary penalty not exceeding \$1 000 000;
- (d) suspend the casino licence for a specified period or until a specified condition is fulfilled;
- (e) suspend the casino licence indefinitely;
- (f) cancel the casino licence.

“(2) In this Act—

*censure* means a notice to the casino licensee that sets out grounds of disciplinary action against the casino licensee.

“(3) A censure may include a direction that requires the casino licensee—

- (a) to cease contravening a provision of this Act or condition of the licence; or
- (b) to rectify a matter that contributes to the grounds of disciplinary action;

within a specified time.

“(4) A casino licence has no effect for the purposes of section 5 while it is suspended, but the suspension does not affect the operation of the licence for any other purpose.

“(5) A monetary penalty imposed under this section may be recovered as a debt due to the Territory.

**“48A Minister may suspend or cancel the casino licence in the public interest**

Despite any other provision of this Act, the Minister may, if satisfied that it is in the public interest to do so—

- (a) suspend the casino licence for such period as the Minister thinks appropriate; or

- (b) cancel the casino licence.

**“48B Grounds for disciplinary action**

For this Act, *grounds for disciplinary action* exist if—

- (a) information given to the commission by the casino licensee at any time was false, incomplete or otherwise misleading; or
- (b) any of the following contravenes a provision of this Act or a condition of the licence:
  - (i) the casino licensee;
  - (ii) a person in charge of the casino;
  - (iii) an agent or employee of the casino licensee; or
- (c) the casino licensee contravenes a requirement by the Treasurer of the Commonwealth in relation to a matter of foreign investment; or
- (d) the casino premises are no longer suitable for the conduct of casino operations; or
- (e) the casino licensee is not, or ceases to be, a suitable person to be the licensee; or
- (f) an owner of the casino is not, or ceases to be, a suitable person to be the owner; or
- (g) the casino lessee is not, or ceases to be, a suitable person to be the lessee; or
- (h) the casino licensee fails to meet the licensee’s financial commitments when they become due and payable; or
- (i) proceedings to wind up the casino licensee are instituted.

**“49 Procedure for disciplinary action or Ministerial action**

“(1) Subject to this section—

- (a) the commission must not take disciplinary action against the casino licensee; and
- (b) the Minister must not take action against the casino licensee under section 48A;

unless the commission has given each interested person—

- (c) 21 days notice that the action is contemplated, and the grounds for it; and
- (d) a reasonable opportunity to show cause why the proposed action should not be taken.



“(2) If a direction given in a censure is not complied with in the specified time, the commission may take further disciplinary action without complying with subsection (1).

“(3) A member of the commission who has participated in a decision to issue a censure is not prevented by that reason alone from participating in a decision on whether further disciplinary action should be taken under subsection (2).

“(4) The commission may reduce the severity of a disciplinary action, and the Minister may reduce a period of suspension under section 48A.

“(5) A disciplinary action or an action under subsection (4) or section 48A takes effect when written notice of the action is received by the casino licensee, or on a later date specified in the notice.

“(6) The commission must send copies of a notice for the purposes of subsection (5) to each interested person.

“(7) In this section—

*interested person* means—

- (a) the casino lessee;
- (b) an owner of the casino; and
- (c) the casino licensee.”.

## **17 Assignment of casino licence**

Section 50 is amended by omitting subsections (2) and (3) and substituting the following subsection:

“(2) The Minister must not approve an assignment of the casino licence to a person that could not be granted the licence under section 45.”.

## **18 Lease of casino**

Section 52 is amended—

- (a) by omitting subsections (1), (2) and (3) and substituting the following subsections:

“(1) The owner may, with the approval in writing of the Minister, lease the casino to a corporation.

“(2) The Minister must not approve a casino lease unless satisfied, taking account of the advice of the commission, that the proposed lessee is suitable to be the lessee.”; and

- (b) by omitting from subsection (4) “the developer, or proprietor, as the case requires,” and substituting “the owner”.

**19 Casino operation agreement**

Section 53 is amended—

- (a) by omitting from subsection (1) “developer, proprietor” and substituting “owner”; and
- (b) by omitting from subsection (2) “developer, proprietor or casino lessee, as the case requires, and the casino licensee” and substituting “proposed parties”.

**20 Substitution**

Divisions 1, 2 and 3 of Part 7 are repealed and the following Divisions substituted:

*“Division 1—Facilities and operations*

**“57A Directions about operations**

“(1) The commission may give directions in writing to the casino licensee, not inconsistent with this Act, about how the licensee is to conduct any operation of the casino, and the casino licensee must comply with the directions.

“(2) This Division does not limit the directions that the commission may give under this section.

**“58 Maintenance of facilities**

The casino licensee must, to the satisfaction of the commission—

- (a) maintain the facilities and amenities of the casino for the benefit of the patrons; and
- (b) maintain in good order and regularly test all security and surveillance equipment relating to the casino; and
- (c) maintain the gaming equipment and chips of the casino in good order and condition.

**“59 Approval of layout**

“(1) The casino licensee must not operate the casino except—

- (a) when the layout of the casino is in accordance with plans and diagrams approved by the commission; and
- (b) in accordance with any conditions set by the commission for the layout used.

Maximum penalty: 250 penalty units for a corporation.

“(2) The casino licensee must submit, for the approval of the commission—

- (a) plans and diagrams of the layout of the casino; and
- (b) if it is proposed to vary the layout of the casino—plans and diagrams of the proposed variation.

“(3) The commission may require the casino licensee to supply further particulars or documents, or to answer written questions about the plans and diagrams submitted to the commission.

“(4) The commission must not approve plans and diagrams under this section unless they show a layout of the casino that complies with the regulations.

“(5) The commission may approve plans and diagrams that provide for alternative layouts, and may set conditions for use of a layout.

“60 **Approval of gaming equipment and chips**

The commission may approve gaming equipment and chips for use in the casino.

“60A **Approved system of controls and procedures must be implemented**

“(1) The casino licensee must not conduct operations in the casino unless the commission has approved in writing a system of internal controls and administrative and accounting procedures for the casino (the *approved system*).

Maximum penalty: 250 penalty units for a corporation.

“(2) The commission may amend the approved system as the commission thinks appropriate.

“(3) The approved system or an amendment of it takes effect when notice of it is given in writing to the casino licensee, or on a later date specified in the notice.

“(4) The casino licensee must ensure that the approved system is implemented.

Maximum penalty: 250 penalty units for a corporation.

**“60B Content of approved system**

The approved system may include (but is not limited to) details of the following:

- (a) accounting procedures, including the standardisation of forms and the definition of terms, to be used in operations in the casino;
- (b) procedures, forms and formulas relating to—
  - (i) hold percentages; or
  - (ii) revenue drop; or
  - (iii) complementary services;
- (c) job descriptions and the system of organising personnel and the chain of command so as to ensure that—
  - (i) responsibility is not concentrated in a small number of positions; and
  - (ii) no person has exclusive responsibility for an area without supervision or scrutiny by another person; and
  - (iii) areas of responsibility are small enough for the individuals responsible to exercise effective supervision;
- (d) procedures for conducting authorised games;
- (e) procedures for receiving, storing and disbursing chips and cash, cashing cheques, redeeming chips and recording all transactions;
- (f) procedures for collecting and ensuring the security of money at the gaming tables and other places in the casino where authorised games are conducted;
- (g) procedures and forms for transferring or moving money within the casino;
- (h) procedures and forms for transferring or moving chips within the casino;
- (i) procedures and security for counting and recording revenue;
- (j) procedures and security for transferring money between the casino and a bank;
- (k) procedures for storing, recording and ensuring the security of chips;
- (l) procedures and standards for maintaining, storing and ensuring the security of gaming and betting equipment;
- (m) procedures for paying and recording winnings that are paid by cash or cheque;

- (n) procedures for issuing chip purchase vouchers and recording the transactions;
- (o) procedures for cashing cheques and recording transactions by cheque;
- (p) procedures for establishing and using deposit accounts;
- (q) procedures for using and maintaining security and surveillance facilities, including closed-circuit television systems;
- (r) procedures for regularly testing security and surveillance equipment;
- (s) procedures for regularly testing—
  - (i) the effectiveness of the procedures of the approved system; and
  - (ii) how well the procedures are being implemented;
- (t) procedures governing the utilisation of security personnel within the casino;
- (u) procedures to control keys used or for use in operations in the casino.

***“Division 2—Operating times***

**“61 Application of Holidays Act**

The *Holidays Act 1958* does not limit the days when the casino may be operated.

**“62 Casino must operate only at approved times**

The casino licensee must not operate the casino except in accordance with the approved schedule of opening times.

Maximum penalty: 250 penalty units for a corporation.

**“63 Approved schedule of opening times**

“(1) The commission must give the casino a schedule of the hours and days when the casino, or specified parts of the casino, may open (the *approved schedule*).

“(2) The commission may vary or replace the approved schedule at any time.

“(3) The approved schedule may—

- (a) specify conditions for opening the casino, or a part of the casino, at specified times; or

- (b) require the casino, or a part of the casino, to be open at specified times.

“(4) The commission must take into account any requests of the casino licensee in deciding on the approved schedule.

***“Division 3—Exclusion of persons from the casino***

**“64 Excluded persons**

In this Act—

***excluded person*** means—

- (a) a person excluded from entering or remaining in the casino under section 69 or 70A; or
- (b) a person—
  - (i) whom the casino licensee or the person for the time being in charge of the casino reasonably believes to be a person mentioned in paragraph (a); and
  - (ii) who has been notified of that belief orally or in writing.

**“65 No general right of entry to the casino**

“(1) Subject to this Division, a person may enter or remain in the casino only by the licence of the casino licensee.

“(2) The regulations may prescribe conditions for members of the public to enter or remain in the casino.

**“66 Entry of inspectors**

An inspector may enter and remain in any part of the casino to perform functions under this Act.

**“67 Entry of police**

“(1) For the purpose of the discharge of the duty of a police officer, any part of the casino to which the public has access is taken to be a public place.

“(2) The commission or an inspector may authorise a police officer to enter any part of the casino to which the public does not have access and remain there for the purpose of discharging his or her duty as a police officer.

“(3) An authorisation that applies on a particular occasion may be given orally.

“(4) An authorisation given in writing may apply on a particular occasion or for a specified period.

“(5) This section does not affect any power a police officer has by law to enter any part of the casino.

“68 **Exclusion of young people**

“(1) The casino licensee must not permit a young person to enter or remain in—

- (a) a gaming area; or
- (b) except in the company of the spouse or a parent of the person—any other part of the casino.

Maximum penalty: 250 penalty units for a corporation.

“(2) A young person must not enter or remain in—

- (a) a gaming area; or
- (b) except in the company of the spouse or a parent of the person—any other part of the casino.

Maximum penalty: 5 penalty units.

“(3) It is a defence in proceedings for an offence against subsection (1) if the defendant proves that the young person—

- (a) was at least 16 years old; and
- (b) had shown a prescribed identity document.

“(4) A person must not use another person’s identification or a form of identification that is forged to enter or remain in a gaming area.

Maximum penalty: 10 penalty units.

“(5) In this section—

***gaming area*** means any part of the casino—

- (a) in which gaming takes place; or
- (b) from which it is possible to see gaming taking place.

***parent*** means a parent who is more than 18 years old.

***spouse*** means a spouse who is more than 18 years old.

***young person*** means a person who is less than 18 years old and is not employed by or permitted to work in the casino.

**“69 Casino licensee may notify persons of exclusion**

“(1) The casino licensee or the person for the time being in charge of the casino may notify a person orally or in writing that the person is excluded under this section from entering or remaining in the casino for the period specified.

“(2) The period specified in an oral notice must not be more than 14 days.

“(3) A written notice must—

- (a) refer to this section; and
- (b) state briefly the reasons why the person is excluded; and
- (c) state that an appeal against the exclusion may be made to the commission.

“(4) A person who is notified orally may require the notice to be put in writing, and may stay in the casino while this is done.

“(5) A person who wishes to appeal to the commission against being excluded under this section from entering or remaining in the casino must do so in a form approved by the commission.

“(6) On receiving an appeal, the commission may, after considering submissions from the person and the casino licensee, confirm, modify or rescind the exclusion.

**“70 Casino licensee must notify certain persons of exclusion**

The casino licensee must use its power under section 69 to exclude a person for at least 24 hours if the person is in the casino and—

- (a) appears not to understand fully the nature or consequences of gaming as it relates to the application of the approved rules of authorised games and the potential for financial loss; or
- (b) appears to be under the influence of alcohol or a drug to the extent that the person could not reasonably be expected to exercise rational judgment while playing an authorised game; or
- (c) appears to be under the influence of alcohol or a drug to the extent that the person is affecting the orderly functioning of the operations of the casino; or
- (d) appears to be cheating, or attempting to cheat, in the casino.



**“70A Notification of exclusion by the Commissioner of Police or the commission**

“(1) The Commissioner of Police or the commission may, by notice in writing to the casino licensee, exclude a specified person (the *subject*) from entering or remaining in the casino indefinitely or for the period specified.

“(2) The person who gives or revokes a notice under subsection (1) must make reasonable efforts to inform the subject of the effect of the notice or revocation.

“(3) The person who gives a notice under subsection (1)—

- (a) must make available to the casino licensee a recent photograph of the subject; or
- (b) if it is not practicable to comply with paragraph (a)—must provide the casino licensee with a description of the subject that is sufficient to enable the casino licensee to identify the person readily.

**“70B Requests for exclusion**

“(1) This section applies if a person wishes to apply to the commission to exclude, under section 70A—

- (a) the applicant; or
- (b) another person (the *affected person*);

from entering or remaining in the casino.

“(2) An application must be made in the approved form and accompanied by either the determined fee or an application for the fee to be waived.

“(3) If the application relates to an affected person, the commission must not take account of the application unless—

- (a) the commission is satisfied that the applicant has a sufficiently close relationship to the affected person to make the request; and
- (b) the affected person has been given an opportunity to object to the notice; and
- (c) the commission is satisfied that it would be in the best interests of the affected person to issue the notice.

“(4) If the commission excludes a person because of an application under this section, the notice to the casino licensee must state that reason.

“(5) This section does not affect the power of the commission to exclude a person under section 70A without an application under this section or on other grounds than an application under this section.

“(6) The commission may waive the determined fee.

“(7) If the commission has not waived the determined fee, the commission must not issue the notice, if it is to be issued because of the application under this section, until the fee has been paid.

**“70C Requests for revocation of exclusion**

“(1) This section applies if an excluded person who was excluded by the commission by a notice under section 70A wishes to apply for the commission to revoke the notice.

“(2) An application must be made in the approved form and accompanied by either the determined fee or an application for the fee to be waived.

“(3) The commission may waive the determined fee.

“(4) If the commission has not waived the determined fee, the commission must not revoke the notice until the fee has been paid.

**“70D Casino licensee must exclude excluded persons**

“(1) The casino licensee must not, without reasonable excuse, permit an excluded person to enter or remain in the casino.

Maximum penalty: 250 penalty units for a corporation.

“(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant believed on reasonable grounds that the person who entered or remained in the casino was not the excluded person.

**“70E Excluded person must not enter casino**

An excluded person must not enter or remain in the casino.

Maximum penalty: 20 penalty units.

**“70F Enforcement**

“(1) A person who is—

- (a) a police officer; or

- (b) an agent or employee of the casino licensee;

may, with such assistance as is necessary and reasonable and using such force as is necessary and reasonable—

- (c) prevent an excluded person from entering the casino; or
- (d) remove an excluded person promptly from the casino.

“(2) A person must not, without reasonable excuse, obstruct or hinder a person who is exercising the power given by subsection (1).

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

**“70G Record of persons excluded from casino**

“(1) The casino licensee must maintain a current record of persons excluded from the casino under section 69 or 70A.

Maximum penalty: 250 penalty units for a corporation.”.

“(2) The record must show which of the following applies to each person:

- (a) the person was excluded under section 69 because section 70 applied to the person;
- (b) the person was excluded under section 69, but section 70 did not apply to the person;
- (c) the person was excluded by the Commissioner of Police under section 70A;
- (d) the person was excluded by the commission under section 70A because of an application under section 70B;
- (e) the person was excluded by the commission under section 70A, but not because of an application under section 70B.

“(3) The record must show for each person the time for which the person is excluded.

“(4) The casino licensee must inform the commission whenever the record changes, and must supply a copy to the commission on request.

Maximum penalty: 250 penalty units for a corporation.”.

**21 Authorised games**

Section 71 is amended by adding at the end the following subsection:

“(4) A request by the casino licensee for the commission to make a declaration under this section must be accompanied by the determined fee.”.

**22 Rules for authorised games**

Section 72 is amended by omitting subsection (7) and substituting the following subsections:

“(7) The casino licensee must ensure that printed copies of the approved rules of each authorised game conducted in the casino are available to patrons without charge at a place near the entrance to the casino.

“(8) A request by the casino licensee for the commission to alter the approved rules of a game under this section must be accompanied by the determined fee.”.

**23 Restriction on credit**

Section 79 is amended—

- (a) by adding at the end of paragraphs (a), (b), (c) and (d) “or”; and
- (b) by omitting from paragraph (e) “or” (last occurring); and
- (c) by omitting paragraph (f).

**24 Application for casino employee’s licence**

Section 89 is amended—

- (a) by adding at the end of subparagraph (1) (c) (ii) “and”; and
- (b) by adding at the end of paragraph (1) (c) the following subparagraph:
  - “(iii) the consent of the applicant for the photograph to be retained by the commission whether or not the application is successful;”.

**25 Destruction of prints and photographs**

Section 90 is amended—

- (a) by omitting from paragraph (c) “, and the photograph;”;
- (b) by omitting from paragraph (d) “, and of that photograph;”.

**26 Substitution**

Section 119 is repealed and the following section substituted:

**“119 Banking accounts**

“(1) The casino licensee must use a banking account approved in writing by the commission for each banking transaction that relates to the operation of the casino or to the casino operation agreement.

Maximum penalty: 250 penalty units for a corporation.

“(2) The commission may approve several banking accounts for use by the casino licensee.

“(3) The commission must not approve a banking account unless—

- (a) the account is with—
  - (i) a bank as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
  - (ii) a bank, credit union or building society constituted under a law of the Territory; or
  - (iii) a similar institution constituted outside the Territory; and
- (b) if the account is maintained outside the Territory—the commission is satisfied that there is good reason for the casino licensee to have the account; and
- (c) the casino has authorised the institution to give details of the account to the commission on request.

“(4) The commission may place restrictions on the use by the casino licensee of a banking account outside the Territory.”.

## **27 Audit**

Section 123 is amended—

- (a) by omitting from subsection (1) “the Auditor-General” and substituting “an auditor approved in writing by the commission”; and
- (b) by omitting from subsection (2) “Auditor-General” and substituting “auditor”.

## **28 Retention of records**

Section 124 is amended by inserting “, or in a place approved in writing by the commission,” after “in the casino”.

## **29 Interpretation**

Section 125 is amended by omitting paragraphs (f), (g), (h) and (i) from the definition of *primary decision* and substituting the following paragraph:

- “(f) a decision by the commission to issue or vary an approved schedule of opening times under section 63;”.

**30 Notification of decisions**

Section 127 is amended—

- (a) by omitting from subsection (1) “The Minister, commission or authorised police officer, as the case requires, shall, upon making a primary decision,” and substituting “The person making a primary decision must”; and
- (b) by omitting from paragraph (1) (b) “(h) or”.

**31 Insertion**

After section 134 the following section is added:

**“135 Transitional provision on control agreement**

The development agreement that was in place immediately before the commencement of section 13 of the *Gambling Legislation Amendment Act 1999* continues in existence as a control agreement, and is taken to have been duly notified in accordance with section 42.”

**32 Further amendments of the Casino Control Act 1988**

The Act is further amended as set out in Schedule 1.

**PART 3—AMENDMENTS OF THE GAMING MACHINE ACT 1987**

**33 Act amended**

This Part amends the *Gaming Machine Act 1987*.

**34 Interpretation**

Section 4 is amended—

- (a) by omitting the definitions of *honorary member*, *ordinary member*, *temporary member* and *recording device*; and
- (b) by omitting the definitions of *acquire*, *club*, *eligible club*, *life member*, *member* and *voting member* and substituting the following definitions:

“*acquire*, in relation to a gaming machine, means take possession of the machine for the purpose of using it for gaming.

*club* means a club that is—

- (a) a company within the meaning of the Corporations Law; or
- (b) an incorporated association.

**eligible club**—see section 30C.

**life member**, in relation to a club, means a person who is elected to membership of the club for life under the rules of the club.

**member**, in relation to a club, means—

- (a) a member who, under the rules of the club, is required to pay fees; or
- (b) a life member.

**voting member**—see section 30G.”; and

(c) by inserting the following definitions:

**“approved attendant**—see section 34C.

**approved supplier**—see section 34.

**approved technician**—see section 34A.

**censure**—see section 24.

**computer cabinet** means the sealable part of a gaming machine that contains the game storage medium and the random access memory.

**disciplinary action**—see section 24.

**eligible object**—see section 30B.

**gaming area** means a room or other area within licensed premises approved under section 41 for the installation of gaming machines.

**grounds for disciplinary action**—see section 24A.

**prescribed identity document**, for an individual, means a document that—

- (a) contains information that indicates that the individual showing it is more than 18 years old; and
- (b) contains a photo that could reasonably be thought to be of the individual displaying it; and
- (c) is one of the following:
  - (i) a licence issued under the *Motor Traffic Act 1936*;
  - (ii) a proof of age card issued under the *Liquor Act 1975*;

- (iii) a document equivalent to a document referred to in subparagraph (i) or (ii) that has been issued in a State or another Territory;
- (iv) a passport.

***unsuitable person*** means an individual who has been convicted within the previous 5 years, whether in the Territory or elsewhere, of an offence—

- (a) involving fraud or dishonesty; or
- (b) that is punishable by a term of imprisonment; or
- (c) against a gaming law of the Territory or a similar law of another jurisdiction.”.

### **35 Application for licence**

Section 14 is amended—

- (a) by omitting paragraph (2) (d); and
- (b) by omitting paragraph (2) (f) and substituting the following paragraphs:
  - “(f) must be accompanied by rules that the licensee proposes to adopt to control the operation of gaming machines on the licensed premises; and
  - (g) must be accompanied by an application for approval, in accordance with section 41, of the part of the premises where the gaming machines are to be installed; and
  - (h) must be accompanied by any other information or document required by the commission; and
  - (i) must be accompanied by the determined fee.”.

### **36 Grant or refusal of licences—clubs**

Section 14A is amended by inserting after paragraph 14A (c) the following paragraphs:

- “(d) the proposed rules to control the operation of gaming machines are satisfactory; and
- (e) at a ballot conducted in accordance with the regulations, a majority of the voting members of the club who voted in the ballot voted in favour of the operation of gaming machines on the club premises;”.



**37 Grant or refusal of licences—offences**

Section 15A is amended by omitting subsection (2) and substituting the following subsection:

“(2) The commission may refuse to issue a licence if a person to whom this section applies is an unsuitable person.”.

**38 Substitution**

Section 17 is repealed and the following section substituted:

**“17 Approval of percentage payout**

“(1) The commission must approve for each gaming machine to which a licence relates a percentage payout that is not less than 85%.

“(2) The percentage payout for each gaming machine must be specified in the licence.”.

**39 Conditions for issue of licences—premises**

Section 20 is amended—

- (a) by omitting subsection (1); and
- (b) by omitting “(2) A licence” and substituting “A licence”; and
- (c) by inserting in subsection (2) “a general licence or” after “premises to which”; and
- (d) by inserting in paragraph (2) (a) “a general licence or” after “been the subject of” ; and
- (e) by inserting in paragraph (2) (c) “in the case of an on licence—” before “the premises”.

**40 Insertion**

After section 20 the following section is inserted in Division 1 of Part 4:

**“21 Licensee must comply with code of practice**

A licensee must comply with the relevant code of practice (if any) prescribed under the Control Act.”.

**41 Variation of licences**

Section 22 is amended—

- (a) by inserting in paragraph (1) (a) “increasing or” before “reducing”; and

- (b) by adding at the end of subsection (1) the following paragraphs:
  - “(e) making changes to the premises to which the licence applies; or
  - (f) moving to different premises.”; and
- (c) by omitting subsection (2) and substituting the following subsections:
  - “(2) An application must be accompanied by—
    - (a) if the application is for a change to the premises or moving to different premises—an application for approval, in accordance with section 41, of the part of the premises where the gaming machines are to be installed; and
    - (b) any other information or document required by the commission; and
    - (c) the determined fee.
  - “(2A) The commission must not vary the licence to increase the number of licensed gaming machines unless satisfied that—
    - (a) the licensee has maintained and operated the existing machines in accordance with this Act; and
    - (b) the increase is reasonable, having regard to—
      - (i) the size and layout of the premises; and
      - (ii) if the licensee is a club—the number of its members.”; and
- (d) by adding at the end of paragraph (3) (b) “or”; and
- (e) by omitting from paragraph (3) (c) “or” (last occurring); and
- (f) by omitting paragraph (3) (d) ; and
- (g) by adding at the end of subsection (6) “, or any longer period allowed by the commission”.

#### **42 Transfer of licence**

Section 23 is amended—

- (a) by adding at the end of paragraph (2) (c) “and”; and
- (b) by adding at the end of subsection (2) the following paragraph:
  - “(d) must be accompanied by such other information as the commission requires.”.

**43 Substitution of heading**

The heading to Division 3 of Part 4 is repealed and the following heading substituted:

*“Division 3—Disciplinary action by the commission”.*

**44 Substitution**

Section 24 is repealed and the following sections are substituted:

**“24 Commission may take disciplinary action against licensee**

“(1) If the commission is satisfied that grounds for disciplinary action exist in relation to a gaming machine licence, the commission may take any of the following *disciplinary actions* that it thinks appropriate:

- (a) issue a censure;
- (b) impose conditions on, or vary the conditions of, the licence;
- (c) impose a monetary penalty not exceeding \$10,000;
- (d) suspend the licence for a specified period or until a specified condition is fulfilled;
- (e) suspend the licence indefinitely;
- (f) cancel the licence.

“(2) In this Act—

*censure* means a notice to a gaming machine licensee that sets out grounds of disciplinary action against the licensee.

“(3) A censure may include a direction that requires the gaming machine licensee, within a specified time—

- (a) to cease contravening a provision of this Act or condition of the licence; or
- (b) to rectify a matter that contributes to the grounds of disciplinary action.

“(4) A licence has no effect for the purposes of section 5 while it is suspended but the suspension does not affect its operation for any other purpose.

“(5) A monetary penalty imposed under this section may be recovered as a debt due to the Territory.

**“24A Grounds for disciplinary action**

In this Act, *grounds for disciplinary action* exist in relation to a gaming machine licence if—

- (a) information given to the commission by the licensee at any time was false, incomplete or otherwise misleading; or
- (b) the licensee or an agent or employee of the licensee contravenes a provision of this Act or a condition of the licence; or
- (c) the licensee or, in the case of a club, a relevant influential person is or becomes an unsuitable person; or
- (d) in the case of a licence issued in relation to the premises of a club—
  - (i) the club has been or is about to be wound up; or
  - (ii) the club has not operated for a period of 3 months or for a longer period allowed by the commission; or
  - (iii) the club has ceased to be an eligible club; or
- (e) in the case of a licence issued in respect of premises to which an on licence applies—the premises have ceased to be used by persons primarily for the consumption of liquor.

**“24B Procedure for disciplinary action**

“(1) Subject to this section, the commission must not take disciplinary action against a licensee unless the commission has given the licensee—

- (a) 21 days notice that the action is contemplated, and the grounds for it; and
- (b) a reasonable opportunity to show cause why the proposed action should not be taken.

“(2) If a direction given in a censure is not complied with in the specified time, the commission may take further disciplinary action without complying with subsection (1).

“(3) A member of the commission who has participated in a decision to issue a censure is not prevented by that reason alone from participating in a decision on whether further disciplinary action should be taken under subsection (2).

“(4) The commission may reduce the severity of a disciplinary action by sending a written notice to the licensee.

“(5) A disciplinary action or an action under subsection (4) takes effect when written notice of the action is received by the licensee, or on a later date specified in the notice.”.

#### **45 Substitution**

Section 30A is repealed and the following section substituted:

#### **“30A Changes in influential persons**

“(1) If it is proposed that—

- (a) a person become or cease to be a relevant influential person in relation to a body; or
- (b) there be any other change in the relationship of a relevant influential person to a body;

the body must give the commission written notice of the person’s name and residential address and details of the proposed change.

Maximum penalty: 100 penalty units.

“(2) If—

- (a) a person has become or has ceased to be a relevant influential person in relation to a body; or
- (b) there has been any other change in the relationship of a relevant influential person to a body;

and no notice was given in accordance with subsection (1), the body must, within 28 days, give the commission written notice of the person’s name and residential address and details of the change.

Maximum penalty: 100 penalty units.

“(3) In this section—

**body** means a corporation that—

- (a) holds or has applied for a licence; or
- (b) is a partner in a partnership on behalf of which a person holds or has applied for a licence, whether or not the partner’s name appears on the licence or the application.”.

**46 Substitution**

Sections 30B and 30C are repealed and the following sections substituted:

**“30B Eligible objects**

“(1) An object of a club is an *eligible object* if—

- (a) it has the purpose of furthering or promoting—
  - (i) recreation; or
  - (ii) social, religious, political, literary, scientific, artistic, sporting or athletic purposes; or
- (b) it is approved by the Minister by written instrument; or
- (c) it is substantially the same as an object mentioned in paragraph (a) or (b).

“(2) An instrument under paragraph (1) (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

**“30C Eligible clubs**

A club is an *eligible club* if—

- (a) the club’s statement of objects—
  - (i) includes eligible objects; and
  - (ii) indicates that the eligible objects together constitute the main part of its objects; and
- (b) the club is conducted primarily to achieve eligible objects; and
- (c) the rules of the club—
  - (i) satisfy section 30G (Membership Rules); and
  - (ii) are consistent with section 30H (Persons may not profit from the club); and
  - (iii) do not prohibit the playing of games of chance for money on the premises of the club; and
- (d) the club has at least 200 voting members; and
- (e) the number of life members of the club does not exceed 5% of the number of voting members of the club; and
- (f) the premises occupied by the club, and the facilities and property of the club, are kept and maintained for the benefit of members generally.”.

**47 Insertion**

After section 30F the following sections are inserted in Part 4:

**“30G Membership rules**

The rules of a club satisfy this section only if they have the effect that—

- (a) the club has members who are entitled to vote on matters to be decided by the club (*voting members*); and
- (b) a voting member—
  - (i) is entitled to vote on every matter to be decided by the club (other than matters to be decided by the governing body); and
  - (ii) has a single vote on every matter; and
  - (iii) is eligible to be elected to the governing body of the club; and
- (c) an annual fee (whether or not payable by instalments) is required for a voting member; and
- (d) a person is not eligible to become a voting member unless he or she—
  - (i) is at least 18 years old; and
  - (ii) has been elected to membership by—
    - (A) a meeting of voting members of the club; or
    - (B) a duly convened meeting of the governing body or a committee of the club, the names of whose members present and voting at that meeting are recorded by the secretary; and
- (e) a person who is eligible to be a voting member—
  - (i) becomes a voting member on payment of an annual fee or an instalment; and
  - (ii) remains a voting member for the period covered by the fee or instalment; and
  - (iii) ceases to be a voting member at the end of a period if the fee for the following period has not been paid; and
- (f) at periods of not more than 3 years the term of office of the governing body of the club ends and—
  - (i) the members of the governing body are elected or re-elected by voting members of the club; or

- (ii) 1 or more members of the governing body are elected or re-elected on the nomination of, or in accordance with the direction of, an associated organisation and any other members of the governing body are elected or re-elected by voting members of the club.

**“30H Persons may not profit from a club**

“(1) A person (whether or not a member) must not derive, directly or indirectly, any benefit from a club other than a benefit that—

- (a) is available equally to all voting members of the club; or
- (b) arises under an agreement in which the parties are dealing with each other at arm’s length; or
- (c) is conferred on a member under a resolution passed at a general meeting of voting members.

“(2) A person (whether or not a member) must not derive, directly or indirectly, any benefit from—

- (a) the club having applied for a licence; or
- (b) a licence being issued to the club; or
- (c) any added value that may accrue to the premises of the club because of a licence being issued to the club;

that is not available equally to all voting members of the club.

“(3) For this section, a person is not excluded from being regarded as dealing with the club at arm’s length only because—

- (a) the person and the club are bodies corporate that are related under section 50 of the Corporations Law; or
- (b) either—
  - (i) the person; or
  - (ii) an individual representing the person in dealings with the club;

is a relevant influential person in relation to the club.

“(4) This section does not prevent a person taking a benefit if—

- (a) the person is entitled (whether or not under the rules of the club) to the benefit in the course of acting on behalf of the club; and
- (b) the benefit consists only of—
  - (i) reasonable food or refreshment; or



- (ii) out-of-pocket expenses reasonably incurred and authorised by a resolution of the club's governing body.”.

**48 Substitution**

Section 31 is repealed and the following section substituted:

**“31 Rules to control operation of gaming machines**

“(1) A licensee must enforce the rules approved by the commission to control the operation of gaming machines on its licensed premises.

“(2) The commission may, on the application of the licensee, approve a variation in the rules.”.

**49 Substitution**

Section 34 is repealed and the following sections are substituted:

**“34 Approved suppliers**

The commission may approve a person as an *approved supplier* for the purposes of this Act if satisfied that the person—

- (a) sells, repairs or maintains gaming machines; and
- (b) is of good business reputation; and
- (c) in the case of an individual—he or she is not an unsuitable person and is of good character; and
- (d) in the case of a body corporate—each relevant influential person is not an unsuitable person and is of good character; and
- (e) satisfies any prescribed conditions.

**“34A Approved technicians**

“(1) The commission may, on the application of an approved supplier, approve an individual as an *approved technician* for the purposes of this Act.

“(2) An application must be in a form approved by the commission and must be accompanied by—

- (a) such details as the commission requires about the person, the applicant and the relationship between them; and
- (b) an undertaking by the person to—
  - (i) request the police to check the person's criminal record using the person's fingerprints; and

(ii) authorise the police to report to the commission the results of the check; and

(c) 2 passport-size photographs of the person; and

(d) the determined fee.

“(3) The commission may waive a requirement imposed under paragraph (2) (a) if the application is for renewal of an existing approval.

“(4) The commission must not approve a person unless satisfied that the person is qualified.

“(5) The commission may approve a person in relation to several suppliers.

“(6) The commission may transfer an approval relating to an approved technician from one supplier to another.

“(7) Approval is valid for 2 years.

“(8) The commission may cancel an approval if the commission ceases to be satisfied that the person is qualified.

“(9) An individual is *qualified* for approval under this section if he or she—

(a) either—

(i) is an approved supplier; or

(ii) is, or will on approval be, an employee or an agent of an approved supplier; and

(b) is suitably qualified to repair and adjust gaming machines serviced by the supplier; and

(c) is not an unsuitable person; and

(d) is of good character; and

(e) satisfies any prescribed conditions.

**“34B Certificates for approved technicians**

“(1) If the commission approves a technician, the commission must issue a certificate to the supplier containing the details of the approval.

“(2) The commission may also issue or approve an identity card to be carried by the approved technician.

“(3) If a certificate has been issued and—

(a) the approval expires; or

(b) the approved technician ceases to be employed by or ceases to be an agent of the supplier; or

(c) the supplier receives notice that the approval has been withdrawn; the supplier must return the certificate and any identity cards to the commission within 7 days.

Maximum penalty: 5 penalty units for an individual, and 25 penalty units for a corporation.

“(4) If a certificate or identity card is lost or destroyed, the commission may issue a replacement certificate or identity card on payment of the appropriate determined fee.

“34C **Approved attendants**

“(1) The commission may, on the application of a licensee, approve an individual as an ***approved attendant*** for the purposes of this Act.

“(2) An application must be in a form approved by the commission and must be accompanied by—

- (a) such details as the commission requires about the person; and
- (b) an undertaking by the person to—
  - (i) request the police to check the person’s criminal record using the person’s fingerprints; and
  - (ii) authorise the police to report to the commission the results of the check; and
- (c) 2 passport-size photographs of the person; and
- (d) the determined fee.

“(3) The commission may waive a requirement imposed under paragraph (2) (a) if the application is for renewal of an existing approval.

“(4) The commission must not approve a person unless satisfied that the person is qualified.

“(5) The commission may approve a person in relation to several licensees.

“(6) The commission may transfer an approval relating to an approved attendant from one licensee to another.

“(7) Approval is valid for 2 years.

“(8) The commission may cancel an approval if the commission ceases to be satisfied that the person is qualified.

“(9) An individual is ***qualified*** for approval under this section if he or she—

- (a) is, or will on approval be, an employee of a licensee; and

- (b) is not an unsuitable person; and
- (c) is of good character; and
- (d) satisfies any prescribed conditions.

**“34D Certificates for approved attendants**

“(1) If the commission approves an attendant, the commission must issue a certificate to the licensee containing the details of the approval.

“(2) If a certificate has been issued and—

- (a) the approval expires; or
- (b) the approved attendant ceases to be employed by the licensee; or
- (c) the licensee receives notice that the approval has been withdrawn;

the licensee must return the certificate to the commission within 7 days.

Maximum penalty: 5 penalty units for an individual, and 25 penalty units for a corporation.

“(3) If a certificate is lost or destroyed, the commission may issue a replacement certificate on payment of the determined fee.”.

**50 Substitution**

Section 35 is repealed and the following section substituted:

**“35 Acquisition of gaming machines—general**

A person must not acquire a gaming machine except in accordance with an approval under section 36.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both for an individual, and 500 penalty units for a corporation.”.

**51 Acquisition of gaming machines—approval**

Section 36 is amended by omitting subparagraph (2) (d) (i) and substituting the following subparagraph:

- “(i) is an approved supplier; or”.

**52 Possession and control of gaming machines**

Section 39 is amended—

- (a) by omitting from subsection (1) “subsection (2)” and substituting “this section”; and

(b) by adding at the end the following subsection:

“(3) The commission may give a person written permission to possess or control a gaming machine on specified conditions if—

- (a) the person is the receiver, manager or liquidator of a licensee; or
- (b) the machine is used only for training purposes; or
- (c) the machine is being stored; or
- (d) the machine is being displayed for sale; or
- (e) the machine is being repaired, tested or evaluated.”.

**53 Disposal of gaming machines—approval**

Section 39F is amended by inserting after subsection (2) the following subsection:

“(2A) The commission must not approve the lease or hire of a gaming machine by one licensee to another.”.

**54 Installation to be in accordance with approval of commission**

Section 41 is amended by inserting after paragraph (2) (c) the following paragraph:

“(ca) the comfort and safety of persons on any part of the premises;”.

**55 Persons who may install gaming machines**

Section 43 is amended—

- (a) by omitting “he or she—” and substituting “he or she is an approved technician.”; and
- (b) by omitting paragraphs (a) and (b).

**56 Meter readings—certificate**

Section 43A is amended by omitting “commission” and substituting “licensee”.

**57 Linked jackpot arrangements—single club licence**

Section 45A is amended by omitting from subparagraph (2) (a) (ii) “and basic stake denomination”.

**58 Interclub permits—issue**

Section 45B is amended—

- (a) by omitting from subparagraph (1) (b) (i) “and basic stake denomination”; and
- (b) by omitting paragraph (2) (e) and substituting the following paragraph:
  - “(e) whether the person is an unsuitable person.”.

**59 Interclub permits—variation on request by permit-holder**

Section 45G is amended by omitting from subparagraphs (2) (a) (i) and (b) (i) “and basic stake denomination”.

**60 Insertion**

After section 45L the following section is inserted in Division 4 of Part 5:

**“45M Undisbursed and unclaimed jackpots**

If an amount won under a linked jackpot under section 45A or 45B is not claimed within 12 months—

- (a) the amount is forfeited to the Territory; and
- (b) after the amount has been paid to the Territory, the winner of the amount—
  - (i) is not entitled to recover the amount from the permit-holder; and
  - (ii) is entitled to recover the amount from the Territory within the period of 6 years after winning the amount; and
  - (iii) is not entitled to recover interest on the amount from the Territory.”.

**61 Substitution**

Section 46 is repealed and the following section substituted:

**“46 Repair and adjustment of gaming machines**

“(1) A person must not open a gaming machine installed on a licensed premises unless the person is an approved attendant, an approved technician or an authorised officer.

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

“(2) A person must not open the computer cabinet of a gaming machine installed on a licensed premises unless the person is an approved technician or an authorised officer.

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

## **62 Interference with gaming machines**

Section 47 is amended by omitting from subsection (2) “a person who is the holder of a repairer’s certificate issued under section 34” and substituting “an approved technician or an authorised officer”.

## **63 Warning notices**

Section 51B is amended—

- (a) by adding at the end of subparagraph (4) (b) (ii) “and”; and
- (b) by adding at the end of paragraph (4) (b) the following subparagraph:
  - “(iii) the provisions of this Division about persons who are less than 18 years old.”.

## **64 Insertion**

After section 51D the following sections are inserted in Part 5A:

### **“51E Entry to gaming area by persons under 18**

“(1) A licensee must not permit a person who is less than 18 years old to enter or remain in a gaming area.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

“(2) A person who is less than 18 years old must not enter or remain in a gaming area.

Maximum penalty: 5 penalty units.

“(3) It is a defence in proceedings for an offence against subsection (1) if the defendant proves that the person—

- (a) was more than 16 years old; and
- (b) had shown a prescribed identity document.

### **“51F Persons under 18 must not play gaming machines**

“(1) A licensee must not permit a person who is less than 18 years old to play a gaming machine.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

“(2) A person who is less than 18 years old must not play a gaming machine.

Maximum penalty: 5 penalty units.

“(3) It is a defence in proceedings for an offence against subsection (1) if the defendant proves that the person—

- (a) was more than 16 years old; and
- (b) had shown a prescribed identity document.

**“51G False identification**

A person must not use another person’s identification or a form of identification that is forged—

- (a) to obtain entry to or remain in a gaming area; or
- (b) to play a gaming machine.

Maximum penalty: 10 penalty units.”.

**65 Audit of records**

Section 56 is amended by omitting from paragraph (1) (a) “a person approved by the commission” and substituting “a certified accountant”.

**66 Gaming machine tax—imposition**

Section 57 is amended by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

- “(a) in relation to the lawful operation of gaming machines—at the rate of the applicable prescribed percentage; and
- (b) in relation to the unlawful operation of gaming machines—at the rate of 100%.”.

**67 Gaming tax—liability**

Section 58 is amended—

- (a) by omitting from paragraph (1) (a) “by a licensee” and substituting “lawfully”; and
- (b) by omitting from paragraph (1) (b) “by a person other than a licensee”.



**68 Substitution**

Section 59 is repealed and the following section substituted:

**“59 Returns**

“(1) Within 7 days after the end of a month, a licensee must give the commission a return relating to the gross revenue in relation to the operation of gaming machines during that month under the licence.

“(2) A return must be in writing in a form approved by the commission and signed by or on behalf of the licensee.”.

**69 Further amendments of the Gaming Machine Act 1987**

The Act is further amended as set out in Schedule 2.

**PART 4—AMENDMENTS OF THE INTERACTIVE  
GAMBLING ACT 1998**

**70 Act amended**

This Part amends the *Interactive Gambling Act 1998*.

**71 Interpretation**

Section 3 is amended—

- (a) by omitting “player” from paragraph (b) and subparagraph (c) (ii) of the definition of *interactive game* and substituting “person”; and
- (b) by omitting the definitions of *interactive gambling*, *player* and *player’s account* and substituting the following definitions:

“*interactive gambling*” means gambling that is—

- (a) conducted by means of interactive games in which a person participates by means of the internet or any other telecommunication medium; and
- (b) is not regulated by another gambling law.

*player*, for a licensed provider, means a person who is—

- (a) registered under section 18; or
  - (b) provisionally registered under section 17;
- with the provider.

*player’s account*—see section 18A.”; and

(c) by inserting the following definitions:

*“disqualified person—see section 18B.*

*excluded person—see section 18B.”.*

**72 Authorisation to conduct interactive games**

Section 11 is amended by omitting subsection (2).

**73 Substitution**

Division 3 of Part 2 is repealed and the following Division substituted:

*“Division 3—Registration of players*

**“15 Only players may participate in authorised games**

“(1) A licensed provider must not permit a person other than a player to participate in an authorised game.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both for an individual, and 1000 penalty units for a corporation

“(2) A person must not participate in an authorised game with a licensed provider unless the person is a player.

Maximum penalty: 4 penalty units.

**“16 Wagers must be covered by amount in the player’s account**

A licensed provider must not accept a wager from a player in an authorised game unless a player’s account has been established in the name of the player with the provider and there are adequate funds in the account to cover the amount of the wager.

**“17 Provisional registration of players**

“(1) A person who applies to a licensed provider to be provisionally registered as a player must provide (by electronic or other means)—

- (a) the person’s name and address; and
- (b) details of the person’s account with an approved credit provider; and
- (c) a statement that the person is at least 18 years old; and
- (d) a statement that the law of the place where the person is does not prevent or disqualify the person from playing authorised games with the provider.

“(2) A person must not provide false or misleading information in an application under this section.

Maximum penalty: 30 penalty units.

“(3) The licensed provider must not provisionally register the person as a player if—

- (a) the person is an excluded person or a disqualified person; or
- (b) the person is not in good standing with the approved credit provider.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

“(4) The licensed provider must cease to provisionally register a person—

- (a) after 30 days; or
- (b) if the provider registers the person under section 18; or
- (c) if it comes to the notice of the provider that—
  - (i) the person is an excluded person; or
  - (ii) the person is not in good standing with the approved credit provider;

whichever occurs first.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

“(5) In this section—

***approved credit provider*** means a provider of credit approved in writing by the commission for the purposes of this section.

## “18 **Registration**

“(1) A person who applies to a licensed provider to be registered as a player must do so in the approved form, providing—

- (a) the information required by the form; and
- (b) evidence of a kind prescribed in the regulations—
  - (i) of the person’s identity; and
  - (ii) of the person’s place of residence; and
  - (iii) that the person is more than 18 years old; and
- (c) a statement that the law of the place where the person is does not prevent or disqualify the person from playing authorised games with the provider.

“(2) A person must not provide false or misleading information in an application under this section.

Maximum penalty: 30 penalty units.

“(3) A licensed provider must not register the person unless—

- (a) the person’s identity has been verified in accordance with the provider’s approved control system; and
- (b) the other statements made by the applicant have been verified in a way approved by the commission; and
- (c) the person is not a disqualified person.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

**“18A Players’ accounts**

“(1) If a licensed provider has registered or provisionally registered a player, the provider must establish an account in the name of the player (the *player’s account*).

“(2) The provider has a right to debit the amount of a wager from the player’s account.

“(3) The player may have direct recourse to the account only—

- (a) in order to ascertain the balance of funds in the account or to close the account; or
- (b) in order to obtain the whole or part of an amount paid into the account as a prize in an authorised game; or
- (c) as authorised by the licensed provider or the commission.

“(4) The provider must not accept more than \$100 in total deposits to the player’s account of a provisionally registered player.

**“18B Lists of excluded persons and disqualified persons**

“(1) A person is a *disqualified person* if he or she—

- (a) is subject to a notice under section 102; or
- (b) has been convicted of an offence against this Division within the previous 5 years.

“(2) A person is an *excluded person* if he or she—

- (a) has been provisionally registered as a player with a licensed provider within the previous 12 months; and
- (b) has not been registered as a player with that or another licensed provider within the previous 12 months.

“(3) The commission must maintain current lists of disqualified and excluded persons and must provide the lists from time to time to each licensed provider.

Maximum penalty: 50 penalty units for an individual, and 250 penalty units for a corporation.

“(4) A person must not disclose information on a list under this section except as required for the operation of this Act or as otherwise required by law.

Maximum penalty: 50 penalty units or imprisonment for 6 months for an individual, and 250 penalty units for a corporation.

**“18C Players names**

For the purposes of playing an authorised game, a licensed provider may allow a registered or provisionally registered person to be identified by a nickname approved by the provider.

**“19 Player bound by rules of a game**

A player who participates in an authorised game must comply with rules of the game as notified to the player under the conditions on which the game is authorised.

Maximum penalty: 40 penalty units.”.

**74 Insertion**

After section 31 the following section is inserted:

**“31A Licensed provider must comply with code of practice**

A licensed provider must comply with the relevant code of practice (if any) prescribed under the Control Act.”.

**75 Substitution**

Section 67 is repealed and the following section substituted:

**“67 Returns about licensees**

“(1) A licensed provider must, within 14 days after each return day, give a return to the commission in the approved form that describes the functions being performed on the return day by each key person licensee.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(2) In this section, each of the following is a **return day** for a licensed provider:

- (a) the day 6 months after the day of issue of the licence;
- (b) a day that is a multiple of 6 months after the day mentioned in paragraph (a);
- (c) a day specified in a written notice given by the commission to the provider.”.

## **76 Conditions for entering into agency agreement**

Section 70 is amended—

(a) by omitting paragraph (1) (b) and substituting the following paragraphs:

“(b) the appointment is made under an agency agreement that—

- (i) is in a form approved by the commission; and
- (ii) includes any provision required by the commission; and

(c) the provider—

- (i) has made enquiries about the person and each associated person; and
- (ii) is satisfied on reasonable grounds—
  - (A) that the person is of good business reputation; and
  - (B) that each associated person is of good character and is in a sound financial position; and
  - (C) as to any other prescribed matters.”; and

(b) by adding at the end the following subsection:

“(4) In this section—

**associated person**, in relation to a proposed agent, means—

- (a) if the proposed agent is an individual—the person; and
- (b) if the proposed agent is a body corporate—each director; and
- (c) each business associate of the proposed agent.”.

**77 Substitution**

Section 73 is repealed and the following section substituted:

**“73 Returns about agents**

“(1) A licensed provider must, within 14 days after each return day, give a return to the commission that lists the provider’s agents on the return day.

Maximum penalty: 10 penalty units for an individual, and 50 penalty units for a corporation.

“(2) In this section, each of the following is a *return day* of a licensee:

- (a) the day 6 months after the commencement of this section;
- (b) a day that is a multiple of 6 months after the day mentioned in paragraph (a).”.

**78 Substitution**

Section 82 is repealed and the following section substituted:

**“82 Liability to licence fee**

“(1) A licensed provider must pay the determined fee to the commission as a *licence fee*.

“(2) The licence fee is payable and due—

- (a) on the day on which the provider is granted the licence; and
- (b) on each anniversary of that day.

“(3) The licence is suspended if a licence fee that is due has not been paid.”.

**79 Agent’s place of operation**

Section 91 is amended by omitting paragraph (a) and substituting the following paragraph:

“(a) is approved in writing by the commission; and”.

**80 Control system submission**

Section 93 is amended by omitting all the words from and including “writing—” and substituting “writing”.

**81 Insertion**

After section 96 the following section is inserted in Division 4:

**“96A Players’ funds must be kept in a trust account**

“(1) A licensed provider must establish 1 or more trust accounts with a financial institution in a way approved in writing by the commission (*approved trust accounts*).

“(2) The provider must keep all funds in a player’s account in an approved trust account.

“(3) The provider must not keep any other funds in an approved trust account.

“(4) The provider must distribute interest paid on an approved trust account only in a way approved in writing by the commission.”.

**82 Funds in player’s account to be remitted on demand**

Section 97 is amended by omitting from subsection (1) “registered”.

**83 Limitation on amount wagered**

Section 101 is amended by omitting from subsection (1) “registered”.

**84 Prohibition of interactive gambling**

Section 102 is amended—

- (a) by inserting after subsection (2) the following subsection:

“(2A) An application must be made in the approved form and accompanied by either the determined fee or an application for the fee to be waived.”; and

- (b) by omitting subsection (8) and substituting the following subsections:

“(8) It is a defence to a prosecution for an offence against subsection (7) if the defendant believed on reasonable grounds that the person who participated in the authorised game was not the person subject to the prohibition.

“(9) The commission may waive the determined fee.

“(10) If the commission has not waived the determined fee, the commission must not issue or revoke the prohibition until the fee has been paid.”.



**85 Payment or collection of prizes**

Section 119 is amended by omitting from subsection (2) “, or a player without a player’s account wins a monetary prize,”.

**86 Claim for prize**

Section 121 is amended by omitting from subsection (1) “5 years” and substituting “1 year”.

**87 Entitlement to prize lapses if not claimed within 1 year**

Section 122 is amended by omitting “5 years” and substituting “1 year”.

**88 Aborted games**

Section 123 is amended—

- (a) by omitting subsection (1); and
- (b) by omitting from subsection (5) “player” and substituting “person”.

**89 Offences by certain persons**

Section 138 is amended—

- (a) by omitting from subsections (1) and (2) “provider or an agent acting within the scope of the agent’s authority” and substituting “person”; and

- (b) by adding at the end the following subsection:

“(5) In this section—

*authorised person* means—

- (a) a licensed provider; or
- (b) an agent of a licensed provider, acting within the scope of the agent’s authority; or
- (c) a party to an ancillary gambling agreement acting under the agreement.”.

**PART 5—CONSEQUENTIAL AMENDMENTS**

**90 Amendment of the Gambling and Racing Control Act 1999**

The *Gambling and Racing Control Act 1999* is amended as set out in Schedule 3.

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**SCHEDULE 1**

(See s 32)

**FURTHER AMENDMENTS OF THE CASINO CONTROL ACT 1988**

**Subparagraph 100 (1) (b) (ii)—**

Omit the subparagraph.

**Subsection 101 (1) (definition of *offence*)—**

Omit all the words from and including “constitutes—”, substitute “constitutes an offence against this Act”.

**Paragraph 9 (1) (a)—**

Omit “referred to in paragraph 23 (1) (a)”, substitute “in supervising the operation of the casino”.

**Section 44—**

Omit “40 (1) or (2) or”.

**Subsection 127A (1)—**

Omit “Sections 4 and 39 have effect notwithstanding”, substitute “Section 4 has effect despite”.

**Paragraph 131 (1) (b)—**

Omit “section 6”, substitute “section 70G”.

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**SCHEDULE 2**

(See s 69)

**FURTHER AMENDMENTS OF THE GAMING MACHINE ACT 1987**

**Section 4 (definition of *gaming machine*, subparagraph (b) (i))—**

After “coins” insert “, notes”.

**Section 4 (definition of *licence*)—**

Omit “section 16”, substitute “section 14A or 15”.

**Section 14A—**

Omit “grant the club”, substitute “issue”.

**Subsection 15 (1)—**

Omit “, 19”.

**Paragraph 15 (1) (d)—**

Add at the end “or”.

**Paragraph 15 (1) (e)—**

Omit “or”.

**Paragraph 15 (1) (f)—**

Omit the paragraph.

**Subsection 16 (1)—**

Omit the subsection.

**Subsection 16 (2)—**

(a) Omit “(2) Notwithstanding”, substitute “Despite”.

(b) Omit “issued under subsection (1)”.

**Section 19—**

Omit the section.

**Paragraph 23 (3) (d)—**

Omit “subsection 24 (2)”, substitute “subsection 24B (1)”.

**Subsection 26 (1)—**

Before “members” insert “voting”.

**SCHEDULE 2**—continued

**Subsection 30CA (2)**—

Omit “paragraph 30C (1) (f) does not apply to it”, substitute “it does not satisfy paragraph 30C (f)”.

**Paragraph 30D (c)**—

Omit all words from “achieve” to the end, substitute “achieve eligible objects”.

**Section 44**—

Omit “licensee” (second occurring), substitute “commission”.

**Paragraph 47 (1) (b)**—

Omit “coin of the denomination”, substitute “coin, note or token of the kind”.

**Section 49**—

Omit “licensee” (second occurring), substitute “commission”.

**Section 50**—

Omit “an authorised officer shall, at the request of the commission,”, substitute “the commission must”.

**Section 51A**—

Omit the section.

**Paragraph 52 (1) (ba)**—

Omit “or (2)”.

**Paragraph 52 (1) (c)**—

Omit the paragraph, substitute the following paragraphs:

“(c) taking disciplinary action under section 24; or

(ca) suspending or cancelling a licence under section 26; or”.

**Paragraph 52 (1) (eb)**—

Omit “rules under subsection 31 (2)”, substitute “variation of rules under section 31”.

**SCHEDULE 2—continued**

**Paragraphs 52 (1) (f), (g) and (h)—**

Omit the paragraphs, substitute the following paragraphs:

- “(f) refusing to approve a person as, or revoking the approval of, an approved supplier under section 34; or
- (g) refusing to approve a person as an approved technician under subsection 34A (1); or
- (h) cancelling an approval of an approved technician under subsection 34A (8); or
- (ha) refusing to approve a person as an approved attendant under subsection 34C (1); or
- (hb) cancelling an approval of an approved attendant under subsection 34C (8); or”.

**Paragraph 52 (1) (x)—**

Add at the end “or”.

**Paragraph 52 (1) (y)—**

Omit “or”.

**Paragraph 52 (1) (z)—**

Omit the paragraph.

**Section 68—**

Omit the section.

**Further amendments**

**1** The following provisions are amended by omitting “recording device” and substituting “computer cabinet”:

Section 4 (definition of *class A gaming machine*, paragraph (d)), (definition of *class B gaming machine*, paragraphs (a) and (b)), (definition of *class C gaming machine*, paragraphs (a) and (b)), paragraph 39C (4) (b), section 48.

**2** The following provisions are amended by omitting “the grant of”:

Subsection 14 (1) and (2), 16 (2), 23 (1), paragraphs 23B (1) (a), paragraphs 52 (1) (a) and (b).

**4** The following provisions are amended by omitting “grant” and substituting “issue”:

Subsection 15 (1), 15A (2), paragraphs 23B (2) (a) and (c).

**SCHEDULE 2**—continued

**5** The following provisions are amended by omitting “granted” and substituting “issued”:

Subsection 23B (3), paragraph 23C (d), subsection 61 (1).

**SCHEDULE 3**

(See s 90)

**AMENDMENT OF THE GAMBLING AND RACING CONTROL  
ACT 1999**

**Subparagraph 45 (1) (d) (i)—**

Omit “a proposed developer, proposed proprietor”, substitute “a proposed owner of the casino”.

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*Gambling Legislation Amendment No 56, 1999*

**Endnotes**

**Acts amended**

- 1 **For Part 2**—Republished as in force on 31 December 1997. See also Acts 1998 No 54; 1999 No 19.
- 2 **For Part 3**—Republished as in force on 1 March 1999. See also Acts 1999 Nos 35 and 38.
- 3 **For Part 4**—Act 1998 No 24. See also Act 1999 No 5.

**Penalty units**

- 4 Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

**Changes to section headings**

- 5 On the day a section specified below is amended by this Act, the heading to that section is altered as set out below:

<b>Section</b>	<b>Change</b>
	<b><i>Gaming Machine Act 1987</i></b>
14A, 15, 15A	Omit “ <b>Grant</b> ”, substitute “ <b>Issue</b> ”.
48	Omit “ <b>recording devices</b> ”, substitute “ <b>computer cabinets</b> ”.

*[Presentation speech made in Assembly on 26 August 1999]*