

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Interactive Gambling Bill 1998

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1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Interactive Gambling Bill 1998

A BILL

FOR

**An Act to regulate interactive gambling and
for related purposes**

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

PART I—PRELIMINARY

1. Short title

5 This Act may be cited as the *Interactive Gambling Act 1998*.

2. Commencement

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

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

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act

is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

3. Interpretation

In this Act, unless the contrary intention appears—

- 5 “agency agreement” means an agreement between a licensed provider and another person—
- (a) appointing the other person as an agent of the licensed provider;
 - (b) dealing with the agent’s authority; and
 - 10 (c) stating the conditions under which the agent acts as, and remains, an agent of the licensed provider;
- “agent”, in relation to a person, means a person who, for the purposes of this Act, is an agent for that person by virtue of section 6;
- 15 “approved control system” means a control system approved by the Commissioner under section 95, and includes an approved control system changed with the approval, or under a direction, of the Commissioner;
- “approved form” means a form approved under section 147 for the purposes of the provision where the expression occurs;
- 20 “authorised game” means a game that is an authorised game for the purposes of this Act under section 10;
- “authorised provider” means a licensed provider or an external provider,
- “authorised tax officer” has the same meaning as in the *Taxation (Administration) Act 1987*;
- 25 “business associate”, in relation to a person, means a person who is, for the purposes of this Act, a business associate of that person by virtue of section 4;
- “Commissioner” has the same meaning as in the *Taxation (Administration) Act 1987*;
- 30 “control system” means a system of internal controls and administrative and accounting procedures for the conduct of interactive games by a licensed provider;
- “corresponding law” means a law declared to be a corresponding law under paragraph 9 (1) (b);
- 35 “determined fee” means a fee determined pursuant to section 145, or in accordance with a manner determined pursuant to section 145, for the purposes of the provision in which the expression occurs;

“executive associate”, in relation to a person, means a person who is, for the purposes of this Act, an executive associate of that person by virtue of section 4;

5 “external provider” means a person who is licensed under a corresponding law to conduct interactive games;

“financial institution” means—

- (a) a bank;
- (b) a building society;
- (c) a credit union;
- 10 (d) a friendly society; or
- (e) another entity prescribed by the regulations,

“game” includes a scheme or arrangement;

15 “interactive gambling” means gambling by means of interactive games accessible from the player’s home in which a player participates by means of the internet or any other telecommunication medium;

“interactive game” means a game in which—

- (a) a prize consisting of money or anything else of value is offered or can be won under the rules of the game;
- (b) a player—
 - 20 (i) enters the game or takes any step in the game by means of a telecommunication device; and
 - (ii) gives, or undertakes to give, a monetary payment or other valuable consideration to enter, in the course of, or for, the game; and
- 25 (c) the winner of the prize is decided—
 - (i) wholly or partly by chance; or
 - (ii) by a competition or other activity in which the outcome is wholly or partly dependent on the skill of the player or another person;

30 “intergovernmental agreement” means an agreement referred to in subsection 9 (2);

“key person licence” means a licence issued under section 52;

“key person licensee” means a person who holds a key person licence;

35 “licensed provider” means a person who is licensed under this Act to conduct interactive games;

“participating jurisdiction” means a State or another Territory declared to be a participating jurisdiction under paragraph 9 (1) (a);

“participating regulator” means the Minister of State in the government of a participating jurisdiction who is responsible for the administration of a corresponding law;

5 “player” means a person who intends to participate, or participates, in an interactive game;

“player’s account” means an account—

- (a) that is established in the name of a player at a financial institution or with a prescribed body,
- 10 (b) against which a licensed provider has a right to debit the amount of a wager; and
- (c) that is established on a basis under which the player may only have direct recourse to the account—
 - (i) in order to ascertain the balance of funds in the account or to close the account;
 - 15 (ii) in order to obtain the whole or part of an amount paid into the account as a prize in an authorised game; or
 - (iii) as authorised by the licensed provider or the chief executive;

20 “regulated interactive gambling equipment” means gambling equipment declared by the regulations to be regulated interactive gambling equipment;

“tax law” has the same meaning as in the *Taxation (Administration) Act 1987*.

25 4. **Meaning of “business associate” and “executive associate”**

(1) A person is, for the purposes of this Act, a business associate of a specified person if the Minister believes on reasonable grounds that—

- (a) the first-mentioned person is associated with the ownership or management of the specified person’s operations; or
- 30 (b) where the specified person is not a licensed provider—the first-mentioned person will, if an interactive gambling licence is granted to the specified person, be associated with the ownership or management of the specified person’s operations.

35 (2) A person is, for the purposes of this Act, an executive associate of a specified person if—

- (a) he or she is an executive officer of a corporation, a partner, trustee or person named in writing by the Minister; and
- (b) the Minister believes on reasonable grounds that—

- 5
- (i) the first-mentioned person is associated with the ownership or management of the specified person's operations; or
 - (ii) where the specified person is not a licensed provider—the first-mentioned person will, if an interactive gambling licence is granted to the specified person, be associated with the ownership or management of the specified person's operations.

(3) In this section—

“specified person” means—

- 10
- (a) an applicant for an interactive gambling licence;
 - (b) a proposed transferee of an interactive gambling licence;
 - (c) a licensed provider; or
 - (d) an agent

5. Meaning of “key person” and “key relationship”

15 (1) For the purposes of this Act, a key person is a person who—

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to operations carried out under an interactive gambling licence or the business of the licensed provider;
- 20 (b) is in a position to control or exercise significant influence over the operations conducted under an interactive gambling licence;
- (c) occupies or acts in a position designated in the licensed provider's approved control system as a key position;
- (d) occupies a position with, or carries out functions for, a licensed provider that makes the person a key person under criteria prescribed under the regulations; or
- 25 (e) is a business or executive associate of a licensed provider designated by the Commissioner, by written notice given to the licensed provider, as a key person.

30 (2) Paragraphs (1) (a) and (b) apply in relation to a position only if the position is designated by the Commissioner by written notice given to the licensed provider as a key position.

(3) Paragraph (1) (a) applies in relation to functions only if the functions are designated by the Commissioner by written notice given to the licensed provider as key functions.

35 (4) For the purposes of this Act, a key relationship is a relationship, other than a familial relationship, between a licensed provider and another person as a result of which the other person is a key person.

6. Meaning of “agent”

(1) For the purposes of this Act, a person is an agent for a licensed provider if he or she carries out, whether within or outside the Territory, any specified function on behalf of the licensed provider

5 (2) For the purposes of this Act, a person is an agent for an external provider if he or she carries out, within the Territory, any specified function on behalf of the external provider

(3) In this section—

“specified function” means—

- 10 (a) registering a player,
(b) establishing a player’s account,
(c) accepting a deposit from, or authorising a withdrawal from, a player’s account, or
15 (d) carrying out any other function that is classified as an agency function by the regulations

7. Incorporation of *Taxation (Administration) Act 1987*

The *Taxation (Administration) Act 1987* is incorporated and shall be read as one with this Act

8. Extraterritorial application of Act

20 In so far as the legislative power of the Assembly permits, this Act applies according to its tenor to—

- (a) persons; and
(b) acts done, transactions entered into, events occurring and matters arising;

25 within or outside the Territory.

PART II—CONTROL OF INTERACTIVE GAMBLING

Division 1—The co-operative scheme

9. Declaration of participating jurisdictions and corresponding laws

30 (1) If the Minister is satisfied a law of a State or another Territory is compatible with this Act, he or she may by instrument declare that—

- (a) that State or Territory is a participating jurisdiction, and
(b) the relevant law of that State or Territory (including the law as amended or substituted from time to time) is a corresponding law.

(2) A declaration is not to be made under this section unless the Territory has entered into an agreement with the prospective participating regulator that makes, in the Minister's opinion, adequate provision for the following matters:

- 5 (a) the taxation of authorised games on a uniform or consistent basis;
- (b) collaboration between the Commissioner and tax officers and gambling officials and officers of the other jurisdiction engaged in the administration of the relevant law of the other jurisdiction;
- 10 (c) mutual recognition of licences and administrative acts between jurisdictions;
- (d) sharing of tax revenue derived from interactive gambling on an equitable basis.

(3) A declaration under subsection (1) and any instrument amending or revoking such a declaration are disallowable instruments for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Division 2—Authorised providers and authorised games

10. Authorised games

(1) Subject to this section, an interactive game is, for the purposes of this Act, an authorised game if—

- 20 (a) a licensed provider is authorised to conduct it under this Division;
or
- (b) subject to this section, an external provider is authorised to conduct it under the corresponding law of the participating jurisdiction in which the provider is licensed.

25 (2) A game that an external provider is authorised to conduct under a corresponding law (in this section referred to as an “externally authorised game”) is not an authorised game if the external provider is prohibited from conducting the game in the Territory by a prohibition under subsection (3).

30 (3) The Minister, if satisfied that the conduct of an externally authorised game in the Territory is contrary to the public interest, he or she may, by written notice given to the external provider authorised under the corresponding law to conduct the game, prohibit the conduct of the game in the Territory.

35 (4) The Minister shall not give a notice under subsection (3) unless he or she has—

- (a) given to the external provider and the relevant participating regulator written notice of the proposed prohibition and the reasons for it;

- (b) allowed each of them a reasonable opportunity to make representations; and
- (c) considered any representation made.

5 (5) The Minister shall give to the relevant participating regulator a copy of a notice under subsection (3).

(6) Where a notice under subsection (3) has been given in respect of an interactive game, the game ceases to be an authorised game.

11. Authorisation to conduct interactive games

10 (1) The Minister may, on written application by a licensed provider, authorise the provider to conduct an interactive game on conditions stated in the instrument of approval.

(2) The conditions of authorisation apply to the conduct of the game both within and outside the Territory.

15 (3) If the Minister refuses an application, he or she shall cause the applicant to be given written notice of the decision and the reasons for it.

12. Change to conditions of authorisation

(1) The Minister may, by written notice given to a licensed provider, change a condition on which an interactive game is authorised if the Minister is satisfied on reasonable grounds that—

- 20 (a) the conditions are not stringent enough to prevent a contravention of this Act;
- (b) compliance with the conditions cannot be effectively monitored or enforced; or
- (c) it is in the public interest that the conditions be changed.

25 (2) The Minister shall not give a notice under subsection (1) unless he or she has—

- (a) given to the licensed provider written notice of the proposed change of condition and the reasons for it;
- 30 (b) allowed the licensed provider a reasonable opportunity to make representations; and
- (c) considered any representation made

13. Revocation of authorisation

35 (1) The Minister may, by written notice given to a licensed provider, revoke the authorisation to provide a particular interactive game if the Minister is satisfied on reasonable grounds that—

- (a) the conditions are not stringent enough to prevent a contravention of this Act;

- (b) compliance with the conditions cannot be effectively monitored or enforced; or
- (c) it is in the public interest that the authorisation be revoked.

5 (2) The Minister shall not give a notice under subsection (1) unless he or she has—

- (a) given to the licensed provider written notice of the proposed revocation and the reasons for it;
- (b) allowed the licensed provider a reasonable opportunity to make representations; and
- 10 (c) considered any representation made.

14. Conducting, or participating in, unauthorised interactive gambling

(1) A person other than an authorised provider shall not—

- (a) conduct an interactive game wholly or partly in the Territory; or
- 15 (b) knowingly allow another person who is in the Territory to participate in an interactive game;

unless the game is an authorised game.

Penalty: 200 penalty units or imprisonment for 2 months.

(2) A person in the Territory shall not—

- 20 (a) participate in an interactive game; or
- (b) aid or abet the participation by another person in an interactive game;

knowing that the game is not an authorised game.

Penalty: 40 penalty units.

25 (3) In this section—

“authorised game” includes a game authorised under a scheme approved under Division 5.

Division 3—Conduct of authorised games

15. Player registration

30 (1) A licensed provider shall not permit a person to participate as a player in an authorised game unless the person is registered with the provider as a player.

Penalty: 200 penalty units or imprisonment for 2 years.

(2) A person shall not participate as a player in an authorised game unless the person is registered as a player with the authorised provider who conducts the game.

Penalty: 40 penalty units.

5 **16. Procedure for registration of players**

(1) An authorised provider, or the agent of an authorised provider, may only register a person as a player on receipt of an application for registration in an approved form.

10 (2) A person is not eligible for registration as a player unless the person produces evidence of a kind prescribed by the regulations that satisfies the Commissioner of the person's identity and place of residence and that he or she is at least 18 years of age

15 (3) A licensed provider or an agent who is requested to register a person as a player in an authorised game by a name other than the person's own name may refuse to register the person if the name chosen is one that is obscene, indecent or offensive.

(4) Before registering a person as a player, an authorised provider or agent shall verify the place of residence of the applicant in a manner approved by the Commissioner.

20 **17. Verification of player's identity**

A licensed provider or an agent shall not allow a registered player to participate in an authorised game until the player's identity has been authenticated under the licensed provider's approved control system.

Penalty. 200 penalty units.

25 **18. Acceptance of wagers**

A licensed provider shall not accept a wager from a player in an authorised game unless—

- 30 (a) 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; or
- (b) the funds necessary to cover the amount of the wager are provided in a way authorised by the regulations.

19. Player to be bound by rules of the game

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

Penalty: 40 penalty units.

Division 4—Restriction of gambling venues

20. Use of premises for interactive gambling

A person shall not—

- 5
- (a) advertise that premises are available for playing interactive games; or
 - (b) knowingly seek to obtain a commercial advantage from the use of premises for playing interactive games.

Penalty: 200 penalty units or imprisonment for 2 years.

Division 5—Exemption schemes

10 **21. Interpretation**

In this Division—

“exempted provider” means a licensed provider in relation to whom an exemption scheme has been approved;

15 “exemption scheme” means a scheme that, if approved by the Minister, will exempt a licensed provider authorised to conduct games under the scheme from the application of provisions of this Act specified in the scheme to the extent specified in the scheme.

22. Approval of exemption schemes

20 (1) The Minister may, in writing, approve an exemption scheme if the Minister is satisfied, on the written application by a licensed provider or an applicant for an interactive gambling licence, that—

- 25
- (a) the exemption scheme complies with the criteria for approval of exemption schemes; and
 - (b) the approval of the exemption scheme is warranted in the circumstances of the case.

(2) An exemption scheme complies with the criteria for approval of exemption schemes if, and only if, the Minister is satisfied that—

- 30
- (a) the standards of probity required under this Act for providers of interactive games and those involved in the conduct of interactive games will not be compromised by the approval of the scheme;
 - (b) adequate and appropriate safeguards will exist to ensure the fairness of the interactive games to be conducted under the scheme and to protect the interests of players;
 - 35 (c) adequate and appropriate safeguards will exist to prevent participation in the interactive games to be conducted under the scheme by persons under the age of 18; and

- (d) the scheme provides for other adequate and appropriate safeguards to ensure that the public interest is not affected in an adverse and material way by the conduct of interactive games under the scheme.

5 **23. Cancellation of approval**

- (1) The Minister may, by written notice to an exempted provider, cancel the approval of an exemption scheme if the Minister is of the opinion that the scheme no longer complies with the criteria for approval of exemption schemes.
- 10 (2) The Minister shall not cancel the approval of an approved exemption scheme unless he or she has—
 - (a) given to the exempted provider written notice of the proposed cancellation and the reasons for it;
 - (b) allowed the exempted provider a reasonable opportunity to make
15 representations, and
 - (c) considered any representation made

24. Termination of approved exemption scheme

An approved exemption scheme terminates—

- (a) when the Minister cancels the approval under this Division, or
- 20 (b) where the approval was given for a specified period and has not been cancelled before the expiry of that period—on the expiry of that period

25. Gazette notice

- (1) The Minister shall cause to be published in the *Gazette* notice of—
25
 - (a) the approval of an exemption scheme; and
 - (b) the cancellation of the approval of an exemption scheme
- (2) A notice under paragraph (1) (a) shall state an address at which the public may inspect, or obtain a copy of, the exemption scheme.

PART III—INTERACTIVE GAMBLING LICENCES

30 ***Division 1—Applications for, and issue of, interactive gambling licences***

26. Application for interactive gambling licence

- (1) A person may apply for an interactive gambling licence.

(2) An application shall be in an approved form and accompanied by the determined fee and, in the case of an application by a natural person, shall also be accompanied by—

- 5
- (a) a written police report about the applicant's character and criminal history;
 - (b) the imprints of the fingers and palms of both hands of the applicant; and
 - (c) a recent photograph of the face of the applicant.

27. Consideration of application

10 (1) Subject to this section, the Minister shall consider an application that complies with section 26 and either grant or refuse it.

(2) The Minister may, by notice in writing given to the applicant, require the applicant to supply to the Minister such further information or documentation as the Minister may reasonably require in order to give proper consideration to the application.

15

(3) Where a notice under subsection (2) has been given, the Minister is not required to determine the application until the notice has been complied with.

(4) The Minister is not required to consider an application for an interactive gambling licence by a natural person until the applicant satisfies the requirements of the regulations relating to satisfactory evidence of his or her identity.

20

28. Criteria for granting application

(1) The Minister shall not grant an application for an interactive gambling licence unless satisfied—

25

- (a) the applicant is a suitable person to hold an interactive gambling licence; and
- (b) each business or executive associate of the applicant is a suitable person to be associated with a licensed provider's operations.

(2) The Minister may refuse to grant an application even if satisfied of the matters mentioned in subsection (1).

30

29. Suitability of applicant to hold interactive gambling licence

(1) For the purpose of deciding whether an applicant is a suitable person to hold an interactive gambling licence, the Minister shall have regard to the following matters:

35

- (a) the applicant's character and business reputation;
- (b) the applicant's current financial position and financial background;

- (c) if the applicant is not an individual—whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (d) whether the applicant has, or is able to obtain, appropriate resources and appropriate services.
- 5 (e) whether the applicant has the appropriate business ability to conduct interactive games successfully under an interactive gambling licence;
- (f) if the applicant has a business association with another entity—
 - (i) the entity’s character or business reputation, and
 - 10 (ii) the entity’s current financial position and financial background;
- (g) any other prescribed matter.

(2) In this section—

“appropriate resources” means financial resources that—

- 15 (a) are adequate, in the Minister’s opinion, to ensure the financial viability of operations conducted under an interactive gambling licence, and
- (b) are available from a source that is not, in the Minister’s opinion, tainted with illegality;

20 “appropriate services” means the services of persons who have appropriate experience to ensure the proper and successful conduct of interactive games;

“entity” includes a person

30. Suitability of business and executive associates

25 (1) In deciding whether a business or executive associate of an applicant for an interactive gambling licence is a suitable person to be associated with a licensed provider’s operations, the Minister shall have regard to the following matters:

- (a) the person’s character and business reputation;
- 30 (b) the person’s current financial position and financial background;
- (c) if the person has a business association with another entity—
 - (i) the entity’s character or business reputation; and
 - (ii) the entity’s current financial position and financial background;
- 35 (d) any other prescribed matter.

(2) In this section—

“entity” includes a person.

31. Procedure on decision

(1) If the Minister grants an application for an interactive gambling licence, he or she shall promptly issue an interactive gambling licence to the applicant.

5 (2) If the Minister refuses to grant an application for an interactive gambling licence, the Minister shall, subject to section 141, give the applicant written notice of the decision and of the reasons for the refusal.

32. Conditions of licence

10 An interactive gambling licence may be issued subject to such conditions as the Minister considers necessary or desirable—

- (a) for the proper conduct of interactive games; or
- (b) in the public interest.

33. Changing or adding conditions

(1) Where the Minister considers it necessary or desirable to do so—

- 15 (a) for the proper conduct of interactive games; or
- (b) in the public interest;

he or she may, subject to subsection (2), by notice in writing to the licensed provider, change or delete a condition to which an interactive gambling licence is subject, or add a condition.

20 (2) If a condition of an interactive gambling licence is designated in the licence as a condition that may be changed only by agreement between the Minister and the licensed provider, the condition may be changed or deleted only by agreement between those persons.

(3) A change of conditions takes effect on a day agreed between the Minister and the licensed provider or, in the absence of an agreement, the later of the following:

- 25 (a) the day the notice under subsection (1) is given to the licensed provider;
- (b) if a later day is stated in the notice—the later day.

30 **34. Return of licence for endorsement of changed conditions**

(1) A licensed provider shall not fail, without reasonable excuse, to return the licence to the Minister within 7 days of receiving a notice under subsection 33 (1).

Penalty: 40 penalty units.

35 (2) On receiving a licence under subsection (1), the Minister shall—

- (a) amend the licence appropriately and return it to the licensed provider; or

(b) if the Minister does not consider it is practicable to amend the licence—issue a replacement licence, incorporating the changes to the conditions, to the licensed provider.

5 (3) A change of conditions does not depend on the interactive gambling licence being amended to record the change or a replacement licence being issued.

35. Form of licence

(1) An interactive gambling licence shall be in the approved form

10 (2) A form shall not be approved for the purposes of subsection (1) unless it provides for the inclusion of the following particulars:

(a) the licensed provider's name;

(b) the date of issue of the licence;

(c) the term for which the licence is, subject to this Act, to remain in force;

15 (d) the conditions that the licence is subject to;

(e) any other prescribed particulars.

Division 2—General provisions about interactive gambling licences

36. Interactive gambling licence not to be transferable

20 Subject to section 37, an interactive gambling licence may not be transferred.

37. Mortgage and assignment of interactive gambling licence

(1) The Minister may, in writing, approve a mortgage, charge or other encumbrance over an interactive gambling licence.

25 (2) A right to sell or transfer an interactive gambling licence that arises from a mortgage, charge or encumbrance approved under subsection (1) may only be exercised in favour of a person approved in writing by the Minister.

30 (3) The Minister shall not approve a person under subsection (2) unless satisfied that—

(a) the proposed transferee is a suitable person to hold an interactive gambling licence; and

35 (b) each business or executive associate of the proposed transferee is a suitable person to be associated with a licensed provider's operations.

(4) For the purpose of making a decision under subsection (3), the Minister may require the proposed transferee of an interactive gambling

licence to submit an application for the licence and may deal with the application, and investigate the suitability of the proposed transferee and the proposed transferee's business and executive associates, in the same way as if the application were an application for a new interactive gambling licence.

- 5 (5) If a person has, under or because of, a mortgage, charge or encumbrance, a power to appoint a receiver or manager of the business conducted under an interactive gambling licence, the power may not be exercised unless the Minister has approved the proposed receiver or manager in writing.

10 **38. Surrender of interactive gambling licence**

(1) A licensed provider may surrender the licence by written notice given to the Minister.

(2) The surrender takes effect—

(a) if paragraph (b) does not apply—

- 15 (i) 3 months after the notice is given; or
(ii) if a later day of effect is stated in the notice—on the later day; or

(b) if the Minister, by written notice, approves a day of effect that is earlier than 3 months after the notice is given—on the day of effect approved by the Minister.

20 (3) A person who has surrendered a licence under this section shall not fail, without reasonable excuse, to return the licence to the Minister within 7 days after the day on which the surrender takes effect.

Penalty: 40 penalty units.

25 ***Division 3—Suspension and cancellation of interactive gambling licences***

39. Grounds for suspension or cancellation

(1) For the purposes of this Division, a ground for suspending or cancelling an interactive gambling licence exists if—

- 30 (a) the licensed provider is not, or is no longer, a suitable person to hold an interactive gambling licence;
(b) a business or executive associate of the licensed provider is not, or is no longer, a suitable person to be associated with the licensed provider's operations;
35 (c) the licensed provider has been convicted of an offence against this Act, a tax law or a corresponding law;

- (d) the licensed provider has been convicted, in Australia or elsewhere, of an offence that is punishable on conviction by imprisonment for not less than 12 months;
- (e) the licensed provider has contravened a condition of the licence;
- 5 (f) the licensed provider has contravened a provision of this Act or a corresponding law, being a provision the contravention of which does not constitute an offence,
- (g) the licensed provider has failed to discharge a financial commitment for the licensed provider's operations,
- 10 (h) the licensed provider is bankrupt, has compounded with creditors or otherwise taken, or applied to take, advantage of any law relating to bankruptcy,
- (i) the licensed provider is affected by control action under the Corporations Law; or
- 15 (j) the interactive gambling licence was obtained by a materially false or misleading representation or in some other improper way.

(2) When considering whether the ground referred to in paragraph (1) (a) exists, the Minister may have regard to the matters to which the Minister may have regard in deciding whether an applicant is a suitable person to hold an interactive gambling licence.

(3) When considering whether the ground referred to in paragraph (1) (b) exists, the Minister may have regard to the matters to which the Minister may have regard in deciding whether a business or executive associate of an applicant is a suitable person to be associated with a licensed provider's operations

(4) For the purposes of paragraph (1) (1), a licensed provider is affected by control action under the Corporations Law if the licensed provider—

- (a) has executed a deed of company arrangement under the Law;
- 30 (b) is the subject of a winding-up, whether voluntary or under a court order, under the Law; or
- (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under the Law

40. Direction to rectify

(1) This section applies where—

- 35 (a) the Minister is satisfied on reasonable grounds that—
 - (i) a ground referred to in subsection 39 (1) exists; and
 - (ii) it is appropriate to give to the licensed provider an opportunity to rectify the matter or matters that give rise to the Minister's belief; and

- (b) the licensed provider has been given—
- (i) written notice that the Minister proposes to give a direction under this section; and
 - (ii) a reasonable opportunity to make representations about the proposed direction under subsection (2).

5

(2) The Minister may, by written notice given to the licensed provider, direct the licensed provider to rectify the matter or matters specified in the notice in a manner specified in the notice within the period of time specified in the notice, being a period of time that is reasonable having regard to the nature of the matter or matters to be rectified.

10

(3) A notice under this section shall state the reasons for the decision to give the direction.

(4) A licensed provider shall comply with a direction under this section.

Penalty: 40 penalty units.

15 **41. Immediate suspension**

(1) The Minister may suspend an interactive gambling licence under this section if the Minister is satisfied on reasonable grounds that—

- (a) a ground referred to in subsection 39 (1) exists;
- (b) the urgency of the matter does not permit the taking of action under section 40; and
- (c) the circumstances require that the licence be suspended to ensure that—
 - (i) the public interest is not affected in an adverse and material way; or
 - (ii) the integrity of the conduct of interactive games by the licensed provider is not jeopardised in any way.

20

25

(2) A suspension under this section—

- (a) shall be effected by written notice given to the licensed provider;
- (b) takes effect when the notice is given; and
- (c) is for such period of time as is specified in the notice.

30

42. Suspension after notice

(1) The Minister may suspend an interactive gambling licence under this section if a direction under section 40 has not been complied with.

(2) A suspension under this section—

- (a) shall be effected by written notice given to the licensed provider;
- (b) takes effect when the notice is given; and

35

(c) is for such period of time as is specified in the notice

43. Cancellation of licence

(1) Subject to this section, the Minister may, by notice in writing to the holder of an interactive gambling licence, cancel the licence if—

- 5 (a) the Minister is satisfied on reasonable grounds that—
- (i) a ground referred to in subsection 39 (1) exists, and
 - (ii) the circumstances on which the ground is based are of a serious and fundamental nature; or
- 10 (b) a direction under section 40 has not been complied with, being a direction given on grounds based on circumstances of a serious and fundamental nature.

(2) The Minister shall not cancel a licence under paragraph (1) (a) unless he or she is satisfied that, unless the licence is cancelled—

- 15 (a) the integrity of the conduct of interactive games by the licensed provider may be jeopardised in a material way, or
- (b) the public interest may be affected in an adverse or material way.

(3) Cancellation of a licence takes effect when the notice is given or, if the notice specifies a later day, on the later day.

20 (4) A person whose licence has been cancelled shall not fail, without reasonable excuse, to return the licence to the Commissioner within 7 days after the day on which the surrender takes effect

Penalty: 40 penalty units.

44. Appointment of administrator

(1) Where the Minister is satisfied on reasonable grounds that—

- 25 (a) a ground referred to in subsection 39 (1) exists; and
- (b) it is appropriate in the public interest to appoint an administrator to conduct operations under an interactive gambling licence;

he or she may, by notice given to the licensed provider, appoint an administrator.

30 (2) An appointment under subsection (1) takes effect when the notice is given to the licensed provider or, if a later date is specified in the notice, on the later date.

(3) An administrator—

- 35 (a) has full control of, and responsibility for, the operations of the licensed provider conducted under the interactive gambling licence, including authorised games that had been commenced, but not completed, at the time of the administrator's appointment; and

- (b) subject to any directions by the Minister, shall conduct the operations as required by this Act as if the administrator were the licensed provider.

45. Cancellation or reduction of period of suspension

5 The Minister may, by written notice to a licensed provider whose license is, or is to be, under suspension—

- (a) cancel the suspension; or
- (b) reduce the remaining period of the suspension by a period of time specified in the notice.

10 *Division 4—Security certificates*

46. Security related decisions

Where—

- (a) the Minister makes a decision under this Part; and
- 15 (b) that decision is based wholly or in part on a matter relating to the security of interactive gambling operations or of an authorised game;

the Minister shall sign a certificate to that effect

PART IV—KEY PERSONS

Division 1—Requirement for key persons to be licensed

20 **47. Obligation to hold licence**

(1) A person shall not, without reasonable excuse—

- (a) accept employment as a key person; or
- (b) agree to carry out as an employee the duties of a key person;

unless the person is a key person licensee.

25 Penalty: 40 penalty units.

(2) A licensed provider shall not employ a person to carry out the functions of a key person, unless the person is a key person licensee.

Penalty: 40 penalty units.

48. Requirement that unlicensed key person end role

30 (1) This section applies where—

- (a) a person has applied for a key person licence; and
- (b) the application has been refused.

(2) Where this section applies, the Commissioner may, by written notice given to the person referred to in subsection (1), require him or her to terminate the relevant key relationship within the time stated in the notice.

(3) A person shall not, without reasonable excuse, fail to comply with a requirement under subsection (2) within the time stated in the notice.

Penalty: 100 penalty units or imprisonment for 1 year.

(4) A person does not incur any liability as a result of action taken to comply with a notice under this section.

49. Requirement to end key person's role

(1) This section applies where a requirement is made of a person under section 48 and—

- (a) the person fails to comply with the requirement; or
- (b) the Commissioner refuses to approve an application for a key person licence made by the person.

(2) Where this section applies, the Commissioner may, by written notice given to the licensed provider with whom the key relationship is believed to exist, require the licensed provider to take any necessary action to terminate the key relationship within the time stated in the notice.

(3) The licensed provider shall comply with a requirement under subsection (2).

(4) A licensed provider does not incur any liability because of action taken to comply with a requirement under this section.

(5) This section applies in relation to a licensed provider despite any other Act or law.

Division 2—Issue of key person licences

50. Application for key person licence

(1) An application for a key person licence may be made to the Commissioner in the approved form.

(2) An application shall be accompanied by—

- (a) a written police report about the applicant's character and criminal history;
- (b) the imprints of the fingers and palms of both hands of the applicant;
- (c) a recent photograph of the face of the applicant;
- (d) any other document that is prescribed; and
- (e) the determined fee.

51. Consideration of application

(1) On receipt of an application for a key person licence the Commissioner shall, subject to this section—

- (a) grant the application; or
- 5 (b) refuse to grant it.

(2) The Commissioner may grant an application only if—

- (a) where the application discloses that a key relationship exists or is proposed to exist with a licensed provider—the Commissioner is satisfied of the existence or the proposed existence of the relationship; and
- 10 (b) the Commissioner is satisfied that the applicant is a suitable person to hold a key person licence.

(3) In deciding whether an applicant is a suitable person to hold a key person licence, the Commissioner may require the applicant to supply a written police report about his or her criminal history and may have regard to—

- (a) the application and the documents submitted with it;
- (b) the applicant's character;
- (c) the applicant's current financial position and financial background; and
- 20 (d) the applicant's general suitability to carry out functions for a licensed provider as a key person.

(4) The Commissioner is not required to consider an application for a key person licence until the applicant satisfies the requirements of the regulations relating to satisfactory evidence of his or her identity.

52. Decision on application

(1) If the Commissioner decides to grant an application for a key person licence, he or she shall, as soon as practicable—

- (a) issue a key person licence to the applicant; and
- 30 (b) give written notice of the issue of the licence to any relevant licensed provider.

(2) If the Commissioner decides to refuse to grant an application for a key person licence, he or she shall, as soon as practicable—

- (a) notify the applicant in writing of the decision and the reasons for the decision; and
- 35 (b) if the Commissioner believes that a key relationship is in existence between the applicant and a licensed provider—give a copy of the notice to the licensed provider.

53. Form of key person licence

(1) A key person licence shall be in the approved form

(2) The approved form shall provide for the inclusion of the following particulars:

- 5 (a) the key person licensee's name;
- (b) a recent photograph of the licensee;
- (c) the date of issue of the licence,
- (d) any conditions that the licence is subject to;
- (e) any other prescribed particulars

10 **54. Conditions**

(1) A key person licence may be issued subject to such conditions as the Commissioner considers necessary or desirable—

- (a) for the proper conduct of interactive games, or
- (b) in the public interest.

15 (2) Where a licence has been issued subject to a condition, the Commissioner shall, as soon as practicable, notify in writing any relevant licensed provider of the condition

55. Changing conditions

(1) Where the Commissioner considers it necessary or desirable—

- 20 (a) for the proper conduct of interactive games; or
- (b) in the public interest,

he or she may, by notice in writing to the key person licensee—

- (c) alter a condition of the licence;
- (d) omit a condition; or
- 25 (e) add a condition to the licence.

(2) Where—

- (a) a notice under subsection (1) has been given, and
- (b) the Commissioner believes that there is in existence a key relationship between the licensee and a licensed provider;

30 the Commissioner shall give a copy of the notice to the licensed provider.

(3) A key person licensee who has received a notice under subsection (1) is guilty of an offence if he or she fails, without reasonable excuse, to return the licence to the Commissioner within 7 days of receiving the notice.

Penalty: 40 penalty units.

(4) On receiving a licence under subsection (3), the Commissioner shall—

- (a) amend the licence in an appropriate way and return the amended licence to the key person licensee; or
- 5 (b) if the Commissioner does not consider it practicable to amend the licence—issue another key person licence, incorporating the changes to the conditions, to the key person licensee to replace the licence returned to the chief executive;

as soon as practicable.

10 (5) An alteration, omission or addition of a condition takes effect—

- (a) subject to paragraph (b)—on the day the notice under subsection (1) is given to the key person licensee; or
- (b) if a later day of effect is stated in the notice—on the later day.

56. Term of key person licence

15 A key person licence remains in force until it lapses or is cancelled or surrendered or a replacement licence is issued in its lieu.

57. Lapsing of key person licence

20 A key person licence lapses if there has been no key relationship between the key person licensee and a licensed provider for a continuous period of 1 year.

58. Replacement of key person licence

(1) Where—

- (a) written application is made to the Commissioner for the replacement of a key person licence;
- 25 (b) the determined fee has been paid; and
- (c) the Commissioner is satisfied that the licence has been lost, stolen, destroyed or damaged in such way as to warrant replacement;

the Commissioner may issue a replacement licence to the key person licensee.

30 (2) A replacement licence shall be on the same terms, and be subject to the same conditions, as the licence it replaces.

(3) Where—

- (a) the Commissioner has refused an application for the replacement of a key person licence; and
- 35 (b) the Commissioner believes that a key relationship exists between the key person licensee and a licensed provider;

the Commissioner shall, as soon as practicable, give a copy of the notice whereby the decision has been notified to the applicant to the licensed provider.

59. Surrender of key person licence

- 5 (1) A key person licensee may surrender the licence by written notice given to the Commissioner.
- (2) The surrender takes effect on—
- (a) the day the notice is given to the chief executive; or
 - (b) if a later day of effect is stated in the notice—the later day
- 10 (3) If the Commissioner believes that a key relationship existed between the key person licensee and a licensed provider at the time of the surrender, the Commissioner shall promptly give notice of the surrender to the licensed provider
- (4) A person who has surrendered a licence under this section shall not fail, without reasonable excuse, to return the licence to the Commissioner within 7 days after the day on which the surrender takes effect.

Penalty 40 penalty units.

Division 3—Disciplinary action

60. Grounds for suspension or cancellation

- 20 Each of the following is a ground for suspending or cancelling a key person licence:
- (a) that the licensee is not, or is no longer, a suitable person to hold a key person licence;
 - (b) the licensee has been convicted of an offence against this Act, a tax law or a corresponding law,
 - 25 (c) the licensee has been convicted of an indictable offence;
 - (d) the licensee has contravened a condition of the licence;
 - (e) the licensee has contravened a provision of this Act or a corresponding law, being a provision a contravention of which does not constitute an offence;
 - 30 (f) the licence was obtained by a materially false or misleading representation or declaration or in any other improper way.

61. Commissioner's belief as to suitability

35 For the purpose of forming a belief that the ground referred to in paragraph 60 (1) (a) exists, the Commissioner may have regard to the same matters as those to which he or she may have regard to when deciding

whether an applicant for a key person licence is a suitable person to hold a key person licence.

62. Suspension of licence

- 5 (1) The Commissioner may, by notice in writing to the holder of a key person licence, suspend the licence if satisfied on reasonable grounds that—
- (a) a ground referred to in section 60 exists; and
 - (b) it is necessary to suspend the licence in the public interest or in order to ensure that the integrity of the conduct of interactive games is not jeopardised.
- 10 (2) A notice under subsection (1) shall state the date until which the licence is suspended
- (3) The suspension takes effect when the notice under this section is given.
- 15 (4) If the Commissioner believes that a key relationship exists between the key person licensee and a licensed provider at the time of the giving of a notice under this section, the Commissioner shall promptly give notice of the suspension to the licensed provider.

63. Directions to rectify

- 20 (1) This section applies where the Commissioner believes on reasonable grounds that—
- (a) a ground referred to in section 60 exists; and
 - (b) it is appropriate to give to the key person licensee an opportunity to rectify a matter on which the ground is based.
- 25 (2) Where this section applies, the Commissioner may, by notice to the key person licensee in accordance with this section, direct the licensee to take such action as is specified in the notice in order to rectify the matter.
- (3) A notice under subsection (2) shall—
- (a) be in writing;
 - (b) state the basis for the formation of the Commissioner's belief; and
 - 30 (c) specify a period of time that is reasonable in the circumstances within which the licensee must comply with the notice.
- (4) The Commissioner shall not give a notice under subsection (2) unless, before doing so, he or she has—
- 35 (a) notified the key person licensee in writing of the grounds which may cause the Commissioner to issue a direction to rectify a specified matter and that the key person licensee may show cause, within a specified period after the date of the notice, (being a

period that is reasonable in the circumstances) why the direction should not be issued; and

(b) considered any representation made within that period.

5 (5) If the Commissioner believes that a key relationship exists between the key person licensee and a licensed provider at the time of the giving of a notice under subsection (2), the Commissioner shall promptly give a copy of the notice to the licensed provider.

(6) A key person licensee shall comply with a direction under this section.

10 Penalty for a breach of subsection (6). 20 penalty units.

64. Cancellation or reduction of period of suspension

(1) The Commissioner may at any time, by notice in writing to a key person licensee whose licence is under suspension—

(a) cancel the remaining period of the suspension; or

15 (b) reduce the remaining period of suspension by a period specified in the notice

(2) The Commissioner shall give a copy of a notice under subsection (1) to any licensed provider to whom a notice under subsection 62 (4) was given when the relevant licence was suspended.

65. Cancellation of key person licence

20 (1) The Commissioner may, by notice in writing to the holder of a key person licence, cancel the licence if—

(a) the Commissioner is satisfied on reasonable grounds that—

(i) a ground referred to in section 60 exists; and

25 (ii) it is necessary to cancel the licence in the public interest or in order to ensure that the conduct of interactive games is not jeopardised; or

(b) a direction under section 63 has not been complied with

30 (2) A cancellation under this section takes effect on the day when the notice is given or, if the notice specifies a later day, on the later day.

(3) If the Commissioner believes that a key relationship exists between the key person licensee and a licensed provider at the time of the giving of a notice under subsection (1), the Commissioner shall promptly give a copy of the notice to the licensed provider.

(4) A person whose licence has been cancelled under this section shall not fail, without reasonable excuse, to return the licence to the Commissioner within 7 days after the day on which the surrender takes effect.

5 Penalty: 20 penalty units.

Division 4—Notification of key person licensees

66. Notice of commencement of key person licensee

10 Within 7 days after a key person licensee commences to perform functions for a licensed provider, the licensed provider shall notify the Commissioner of the commencement by notice in the approved form.

Penalty: 40 penalty units.

67. Returns about licensees

(1) The Commissioner may, by written notice given to a licensed provider, require the licensed provider to give a return under this section.

15 (2) The notice shall state a time, being not less than 14 days after the notice is given, for giving the return.

(3) A notice shall not be given under this section within 1 month after the giving of a previous notice.

20 (4) A licensed provider who is given a notice under subsection (1) shall give a return as required by this section listing the key person licensees currently performing functions for the licensed provider (including both those who are key person licensees and those who are not) and the nature of the duties in which each of them is engaged.

Penalty: 40 penalty units.

25 (5) A return under this section—

(a) shall be in the approved form; and

(b) shall be given to the Commissioner within the time stated in the notice.

Division 5—Requirements about key relationships

30 **68. Notice of end of key relationship**

Within 7 days after a key relationship between a licensed provider and another person terminates, the licensed provider shall notify the Commissioner of the end of the relationship by notice in the approved form.

Penalty: 40 penalty units.

69. Requirement to end key relationship

(1) This section applies where—

- (a) a key relationship exists between a licensed provider and a key person licensee, and
- 5 (b) the key person licence is suspended or the key person licensee ceases to hold a key person licence because of cancellation or for any other reason.

(2) Where this section applies, the Commissioner may, by written notice given to the licensed provider, require the licensed provider to terminate the key relationship within the time stated in the notice.

(3) A licensed provider shall comply with a requirement under subsection (2).

(4) This section has effect despite another Act or law or any industrial award or agreement

15 (5) A licensed provider does not incur any liability under another Act or law or any industrial award or agreement by complying with a requirement of the Commissioner under this section.

PART V—AGENTS

Division 1—Agency agreements

20 **70. Conditions for entering into agency agreement**

(1) A licensed provider shall not appoint a person as his or her agent unless—

- (a) the person is—
 - (i) in the case of a natural person—at least 18 years of age; and
 - 25 (ii) eligible to be an agent under criteria prescribed by the regulations; and
- (b) the appointment is made under an agency agreement that—
 - (i) is in a form approved by the Commissioner;
 - (ii) states the agent's place of operation; and
 - 30 (iii) includes any other provision required by the Commissioner.

(2) The Commissioner shall not require the inclusion of a provision in an agency agreement unless he or she believes on reasonable grounds that the inclusion of the provision is reasonably necessary to ensure—

- 35 (a) that the integrity of the conduct of interactive games is not jeopardised in a material way; or

(b) that the public interest is not affected in an adverse and material way.

(3) A licensed provider shall not—

(a) appoint; or

5 (b) purport to appoint,

a person as an agent otherwise than in accordance with this section.

Penalty: 200 penalty units or imprisonment for 2 years.

71. Notice of agency agreement

10 Within 7 days after entering into an agency agreement, a licensed provider shall give to the Commissioner a copy of the agreement.

72. Amendment of agency agreement

(1) An agency agreement may only be amended if the Commissioner has given written approval to the amendment.

15 (2) The Commissioner may withhold approval of a proposed amendment only if it is necessary to do so in the public interest or to protect proper standards of integrity in the conduct of interactive games.

73. Returns about agents

A licensed provider shall—

(a) within 6 months after becoming a licensed provider; and

20 (b) within 6 months after the giving of a return under this section;

give to the Commissioner a return in the approved form listing the provider's current agents.

Penalty: 40 penalty units.

Division 2—Disciplinary action

25 **74. Grounds for disciplinary action**

Each of the following is a ground for disciplinary action in relation to an agent for the purposes of this Division:

(a) that the agent is not, or is no longer, eligible to be an agent for a licensed provider;

30 (b) that the agent is not, or is no longer, a suitable person to be an agent;

(c) that a business or executive associate of the agent is not, or is no longer, a suitable person to be associated with an agent's operations;

- (d) that the agent has been convicted of an offence against this Act, a tax law or a corresponding law,
- (e) that the agent has been convicted, in Australia or elsewhere, of any other offence punishable on conviction by imprisonment for not less than 12 months;
- (f) that the agent has contravened a provision of this Act or a corresponding law, being a provision a contravention of which does not constitute an offence

75. Formation of Commissioner's beliefs

(1) For the purpose of forming a belief that the ground mentioned in paragraph 74 (1) (b) exists, the Commissioner may have regard to—

- (a) the agent's character or business reputation,
- (b) the agent's current financial position and financial background, and
- (c) the agent's general suitability to act as an agent for a licensed provider

(2) For forming a belief that the ground mentioned in paragraph 74 (1) (c) exists, the Commissioner may have regard to the business or executive associate's character or business reputation, current financial position and financial background

76. Commissioner's notice to terminate agreement

Where the Commissioner is satisfied on reasonable grounds—

- (a) that a ground for disciplinary action exists in relation to an agent;
- (b) that the ground is based on serious and fundamental circumstances; and
- (c) that—
 - (i) the integrity of the conduct of interactive games by the relevant licensed provider may be jeopardised; or
 - (ii) the public interest may be affected adversely;

the Commissioner may, by notice in writing given to the agent and the licensed provider, direct the licensed provider to terminate the agency agreement between them within a period of time specified in the notice.

77. Suspension of agent's operations

(1) Where the Commissioner is satisfied on reasonable grounds—

- (a) that a ground for disciplinary action exists in relation to an agent; and
- (b) that it is necessary to suspend an agent's operations—

- (i) to ensure that the integrity of the conduct of interactive games by the relevant licensed provider is not jeopardised;
or
- (ii) in the public interest;

5 the Commissioner may, by notice in writing given to the agent and the licensed provider, direct the agent to perform no functions under the agency agreement between them for such period of time as is specified in the notice.

(2) An agent to whom a notice under this section has been given shall not carry out any functions in contravention of the notice.

10 Penalty: 200 penalty units or imprisonment for 2 years.

78. Direction to rectify

(1) Where the Commissioner is satisfied on reasonable grounds that—

- (a) a ground for disciplinary action exists in relation to an agent; and
- 15 (b) it is appropriate to give to the agent an opportunity to rectify the matter on which the disciplinary ground is founded;

the Commissioner may, by notice in writing given to the agent and the relevant licensed provider, direct the agent to rectify a matter specified in the notice within such period of time as is specified in the notice.

20 (2) An agent to whom a notice under this section has been given shall comply with the notice.

Penalty: 20 penalty units.

79. Termination of agreement

(1) A licensed provider who has been given a notice under section 76 to terminate an agency agreement shall—

- 25 (a) terminate the agreement within the time stated in the notice; and
- (b) notify the Commissioner in writing of the termination in the approved form within 7 days after terminating the agreement.

30 (2) If the licensed provider does not terminate the agency agreement as required by subsection (1), the agreement is terminated, by virtue of this subsection, at the expiry of the period of time stated in the notice.

(3) The Territory does not incur any liability if an agency agreement is terminated by a licensed provider under subsection (1) or by virtue of subsection (2).

35 (4) A licensed provider does not incur any liability because the licensed provider terminates an agency agreement under subsection (1).

80. Notice of termination of agreement

(1) This section applies where an agency agreement is terminated otherwise than because of a direction to terminate the agreement given to the licensed provider by the Commissioner.

5 (2) Where this section applies, the licensed provider shall notify the Commissioner in writing of the termination within 7 days after the agreement is terminated

Penalty. 40 penalty units.

PART VI—LICENCE FEES AND TAX

10 *Division 1—Preliminary*

81. Interpretation

In this Part—

“interactive gambling tax” means the tax payable under section 83

Division 2—Licence fees

15 **82. Liability to licence fee**

A licensed provider shall pay to the Territory such licence fees as he or she is required to pay under the conditions of his or her interactive gambling licence.

Division 3—Interactive gambling tax

20 **83. Liability to tax**

(1) A licensed provider shall pay to the Territory a tax for each authorised game conducted by the licensed provider.

(2) Interactive gambling tax is to be calculated and paid in accordance with the regulations.

25 **84. Returns for calculation of tax**

Within 7 days after the end of each month, a licensed provider shall give the Commissioner a return in the approved form containing—

30 (a) such information for calculating interactive gambling tax on games conducted by the licensed provider during the relevant month as is prescribed; and

(b) such other information as is prescribed for the purposes of this paragraph.

Penalty: 40 penalty units.

PART VII—COMPLIANCE REQUIREMENTS

Division 1—Rules and directions

85. Rules

- 5 (1) The Minister may, by instrument, determine or vary rules relating to—
- (a) the conduct of authorised games by licensed providers;
 - (b) prizes in authorised games conducted by licensed providers; or
 - (c) such other matters relating to interactive gambling as the Minister deems necessary.
- 10 (2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

86. Directions

- The Commissioner may, by written notice given to—
- 15 (a) a licensed provider;
 - (b) licensed providers specified in the notice; or
 - (c) all licensed providers;
- give directions about the conduct of authorised games by that provider, the specified providers or all providers, as the case requires.

87. General responsibilities of licensed provider

- 20 A licensed provider shall comply with—
- (a) the rules determined by the Minister under this Division; and
 - (b) any direction given by the Commissioner under this Division.

Penalty: 40 penalty units.

88. Responsibility of licensed provider to ensure compliance by agent

- 25 A licensed provider shall ensure that every person who is an agent for the provider—
- (a) is aware of the requirements of the rules, and any directions, under this Division; and
 - 30 (b) complies with those rules and directions.

Penalty: 40 penalty units.

89. Responsibility of agent

- (1) An agent shall comply with—
- (a) rules determined by the Minister under this Division, and

(b) any direction given by the Commissioner under this Division

Penalty: 40 penalty units.

(2) It is a defence to a prosecution for a breach of paragraph (1) (b) if the agent satisfies the court that he or she did not know, and could not reasonably be expected to have known, of the requirements of the direction.

Division 2—Place of operation

90. Licensed provider's place of operation

(1) A licensed provider shall not conduct an authorised game unless the place or places of operation from which the game is conducted—

- 10 (a) is or are approved in writing by the Commissioner; and
(b) the approval has not been revoked.

Penalty: 200 penalty units or imprisonment for 2 years.

(2) A licensed provider shall ensure that any regulated interactive gambling equipment used by the licensed provider for the conduct of authorised games is situated at a place approved under subsection (1).

15 Penalty: 50 penalty units.

91. Agent's place of operation

An agent shall not carry on operations in the Territory at a place other than a place that—

- 20 (a) is of a kind prescribed by the regulations as appropriate for an agent; and
(b) if the agent is an agent for a licensed provider—is stated in the agency agreement as the agent's place of operation.

Penalty: 200 penalty units or imprisonment for 2 years.

Division 3—Control systems

92. Authorised games to be conducted under an approved control system

(1) A licensed provider may conduct an authorised game only if—

- 30 (a) the licensed provider has obtained approval of a control system by the Commissioner; and
(b) the game is conducted under the system.

(2) A licensed provider may change the approved control system only—

- (a) with the approval of, or as directed by, the Commissioner; and
(b) in the way directed or approved by the Commissioner.

93. Control system submission

- (1) A licensed provider may make a submission in accordance with this section to the Commissioner for approval of a proposed control system.
- (2) A submission under this section shall be made in writing—
- 5 (a) at least 90 days before the licensed provider proposes to start conducting interactive games; or
- (b) if the Commissioner considers it appropriate to allow a submission to be made at a later time—within the time allowed by the Commissioner.
- 10 (3) A control system submission shall describe and explain the licensed provider's proposed control system.
- (4) Without derogating from the generality of subsection (3), a control system submission shall include information about—
- 15 (a) the following things to be used for the conduct of interactive games:
- (i) accounting systems and procedures and chart of accounts;
 - (ii) administrative systems and procedures;
 - (iii) computer software;
 - (iv) standard forms and terms;
- 20 (b) the general procedures to be followed for the conduct of interactive games;
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of interactive games;
- 25 (d) the procedures for recording and paying prizes won in interactive games;
- (e) the procedures for using and maintaining security facilities; and
- (f) the positions to be designated as key positions.

94. Changes to control systems

- 30 (1) A licensed provider may make a submission to the Commissioner for approval to change the licensed provider's approved control system.
- (2) A control system submission under this section shall be made in writing—
- 35 (a) at least 90 days before the licensed provider proposes to start conducting interactive games under the approved control system as proposed to be changed; or

(b) if the Commissioner considers it appropriate to allow a submission to be made at a later time—within the time allowed by the Commissioner.

5 (3) A submission under this section shall contain particulars of the proposed changes of the licensed provider's approved control system.

95. Consideration of, and decisions about, submissions

(1) The Commissioner shall consider a submission and either approve it or refuse to approve it.

10 (2) In considering a submission, the Commissioner may, by written notice given to the licensed provider, require the licensed provider—

(a) to give the Commissioner such further information about the submission as is specified in the notice and is necessary and reasonable to help the Commissioner to make a decision about the submission; or

15 (b) to allow the Commissioner to submit the proposed control system, or the approved control system as proposed to be changed, to tests.

(3) In considering whether to give an approval, the Commissioner shall have regard to—

20 (a) whether the submission satisfies the requirements under this Division; and

(b) whether the licensed provider's proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the conduct of interactive games.

(4) The Commissioner may refuse to give an approval if the licensed provider fails to comply with a requirement under subsection (2) without a reasonable excuse.

30 (5) The Commissioner shall promptly give to the licensed provider a written notice of his or her decision

(6) If the Commissioner refuses to give an approval, the notice under subsection (5) shall state the reasons for the decision and, if the Commissioner believes that the submission is capable of being easily rectified to enable the Commissioner to approve it, the notice shall also—

35 (a) explain how the submission may be changed; and

(b) invite the licensed provider to resubmit the submission after making the appropriate changes.

(7) In this section—

“submission” means a submission under section 93 or 94.

96. Direction to change approved control system

(1) The Commissioner may, by written notice given to a licensed provider, direct the provider to change the provider's approved control system within the time, and in the way, stated in the notice.

5 (2) A licensed provider shall comply with a direction under subsection (1).

Penalty: 100 penalty units.

(3) If a licensed provider does not comply with a direction under subsection (1), the approval for the licensed provider's control system is, by
10 virtue of this subsection, cancelled.

Division 4—Dealings involving players' accounts

97. Funds in player's accounts to be remitted on demand

(1) A licensed provider shall, at the request of the registered player in whose name a player's account is established, remit funds standing to the
15 credit of the account as directed by the player no later than the first business day after the request is received.

Penalty: 100 penalty units.

(2) In this section—

20 "business day" means a day on which banks are open for business in the Territory.

98. Licensed provider or agent not to act as credit provider

(1) A licensed provider or an agent shall not provide credit to a player.

Penalty: 200 penalty units or imprisonment for 2 years.

(2) A licensed provider or an agent shall not act as agent for a credit
25 provider to facilitate the provision of credit to a player.

Penalty: 200 penalty units or imprisonment for 2 years.

99. Licensed providers' limited recourse to players' accounts

A licensed provider shall not have recourse to funds in a player's account except—

30 (a) to debit to the account a wager made by the player or an amount the player indicates the player wants to wager in the course of an authorised game the player is playing or about to play;

(b) to remit funds standing to the credit of the account to the player at the player's request; or

35 (c) as otherwise authorised under this Act.

Penalty: 200 penalty units or imprisonment for 2 years

100. Inactive players' accounts

5 (1) Subject to subsection (2), if no transaction has been recorded on a player's account for the prescribed period of time, the licensed provider shall remit any remaining balance to the player or, if the player cannot be found, deal with it in accordance with the regulations.

(2) This section does not apply where the player has requested the licensed provider in writing to keep the account open

Division 5—Responsible gambling

10 **101. Limitation on amount wagered**

(1) A registered player may, by written notice to a licensed provider, set a limit on the amount the player may wager.

(2) A limit may be set under subsection (1)—

- 15 (a) in relation to a game or any number of single games;
(b) by way of a maximum limit that may be wagered over a number of games specified in the notice or played during a period of time specified in the notice; or
(c) at zero

20 (3) A licensed provider who has received a notice under subsection (1) shall not debit a wager to a player's account in excess of a limit set out in the notice.

Penalty: 40 penalty units.

(4) A player who has set a limit under this section may change or revoke the limit by written notice given to the licensed provider.

25 (5) A notice increasing or revoking a limit does not have effect unless—
(a) 7 days have passed since the provider received the notice; and
(b) the player has not notified the provider of an intention to withdraw the notice.

30 (6) A notice reducing the limit has effect on its receipt by the licensed provider.

102. Prohibition of interactive gambling

(1) Application may be made to the Commissioner in the approved form for an order—

- 35 (a) prohibiting a person who is resident in the Territory from participating in authorised games; or
(b) revoking an order under paragraph (a)

- (2) An application under this section may only be made by—
- (a) a person who seeks a prohibition, or the revocation of a prohibition, against himself or herself; or
 - (b) a person who satisfies the Commissioner of a close personal interest in the welfare of the person against whom a prohibition is sought.
- (3) If the application is made by a person other than the person against whom the prohibition is sought or has been imposed (in this section referred to as the “affected person”), the Commissioner shall—
- (a) give to the affected person written notice of the application and the reasons for it; and
 - (b) invite the affected person to make representations to the Commissioner about the application within a reasonable time stated in the notice.
- (4) The Commissioner shall, after considering any representations from the applicant, and if the applicant is not the affected person, the affected person—
- (a) if satisfied that the order sought in the application should be made in the interest of the affected person and the public interest—make the order; or
 - (b) if not so satisfied—refuse to make the order.
- (5) Subject to section 142, the Commissioner shall, as soon as practicable after making a decision under subsection (4), give written notice of the decision and the reasons for the decision to the applicant and, if the affected person is not the applicant, the affected person.
- (6) If an order is made on the application, the Commissioner shall give copies of the order to—
- (a) all authorised providers; and
 - (b) all participating regulators.
- (7) An authorised provider to whom a copy of an order imposing a prohibition has been given shall not accept a wager from a person, or allow a person to participate in any other way in an authorised game, contrary to the prohibition
- Penalty: 200 penalty units.
- (8) An application under paragraph (1) (a) shall be accompanied by the determined fee.

Division 6—Gambling records

103. Interpretation

In this Division—

“approved place” means a place approved under paragraph 104 (1) (a),

5 “exempt gambling record” means—

(a) a record specified under paragraph 104 (1) (b); or

(b) a record specified under paragraph 104 (1) (c)—

(i) during the period of time specified under that paragraph, or

10 (ii) while the circumstances specified under that paragraph exist;

“public office”, in relation to a licensed provider, means the licensed provider’s principal place of business in the Territory or, if the licensed provider is a corporation and has its registered office in
15 the Territory, the registered office.

104. Notices about keeping gambling records

(1) The Commissioner may, by written notice given to a licensed provider—

20 (a) approve a place nominated in writing by the licensed provider (other than the licensed provider’s public office) as a place for keeping the licensed provider’s gambling records,

(b) specify a gambling record of the licensed provider that is not required to be kept at the licensed provider’s public office or an approved place;

25 (c) specify a gambling record of the licensed provider that may be kept temporarily at a place other than the licensed provider’s public office or an approved place, and the period of time during which, or the circumstances in which, the record may be kept at the other place;

30 (d) approve the keeping of information contained in a gambling record that is no longer being used in a way different from the way the information was kept when the record was being used by the licensed provider; or

35 (e) approve the destruction of a gambling record the Commissioner considers need not be kept.

(2) The Commissioner may specify a gambling record for the purposes of paragraph (1) (b) only if the Commissioner considers that there is sufficient reason for the record to be kept at a place other than the licensed provider’s public office or an approved place.

105. Gambling records to be kept at certain place

(1) A licensed provider shall keep the licensed provider's gambling records at—

- (a) the licensed provider's public office; or
- 5 (b) at an approved place for the records.

Penalty: 40 penalty units.

(2) Subsection (1) does not apply in relation to an exempt gambling record.

Division 7—Financial accounts, statements and reports

10 **106. Keeping of accounts**

A licensed provider shall—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the licensed provider's operations conducted under the interactive gambling licence; and
- 15 (b) keep the accounting records in a way that allows—
 - (i) true and fair financial statements and accounts to be prepared from time to time; and
 - (ii) the financial statements and accounts to be conveniently and properly audited.

20 Penalty: 40 penalty units

107. Preparation of financial statements and accounts

(1) A licensed provider shall prepare financial statements and accounts as required by this section giving a true and fair view of the licensed provider's financial operations conducted under the interactive gambling licence.

25 Penalty: 40 penalty units.

(2) The financial statements and accounts must include the following:

- (a) trading accounts, if applicable, for each financial year;
- (b) profit and loss accounts for each financial year;
- (c) a balance sheet as at the end of each financial year.

30 **108. Submission of reports**

(1) A licensed provider shall give reports to the Commissioner as required by this section about the licensed provider's operations under the interactive gambling licence.

Penalty: 40 penalty units.

- (2) The reports shall be given at the times stated in a written notice given to the licensed provider by the Commissioner
- (3) A report shall be in the approved form.
- 5 (4) The Commissioner may, by written notice given to a licensed provider, require the provider to give to the Commissioner further information specified in the notice within the time stated in the notice, being information that the Commissioner reasonably requires in order to acquire a proper appreciation of the licensed provider's operations
- 10 (5) A licensed provider shall not fail, without reasonable excuse, to comply with a notice under subsection (4)

Penalty: 40 penalty units

- (6) A licensed provider shall not give to the Commissioner in a report under this section information that the licensed provider knows to be false, misleading or incomplete in a material particular.
- 15 Penalty: 100 penalty units.

Division 8—Audit

109. Audit of licensed provider's operations

20 As soon as practicable after the end of a financial year, a licensed provider shall, at his or her own expense, cause the books, accounts and financial statements for the operations conducted under the interactive gambling licence for the financial year to be audited by a registered company auditor.

Penalty: 40 penalty units

110. Audit reports

- 25 (1) A licensed provider shall give a copy of the report on an audit conducted under this Division to the Commissioner within 3 months after the end of the financial year to which the audit relates.
- (2) A licensed provider shall not, without reasonable excuse, fail to comply with subsection (1).

30 Penalty: 100 penalty units.

111. Further information following audit

- 35 (1) On receiving a copy of an audit report, the Commissioner may, by written notice given to the licensed provider, require the licensed provider to give the Commissioner such further information as is specified in the notice about any matter relating to the licensed provider's operations that is mentioned in the audit report.

(2) A notice under subsection (1) shall specify a period time within which the notice is to be complied with.

(3) A licensed provider shall not fail, without reasonable excuse, to comply with a notice under this section.

5 Penalty: 40 penalty units.

Division 9—Ancillary and related agreements

112. Interpretation

In this Division—

10 “ancillary gambling agreement” means an agreement, contract, lease or arrangement, whether written or unwritten, under which a person agrees to provide to a licensed provider a thing or service in return for a direct or indirect interest in, or percentage or share of—

- (a) amounts received by the licensed provider in the course of the licensed provider’s business; or
- 15 (b) the revenue, profit or earnings derived by the licensed provider from the licensed provider’s business;

but does not include an agency agreement;

“related agreement” means—

- 20 (a) an agreement, contract, lease or arrangement, whether written or unwritten, that—
 - (i) is entered into between a licensed provider and another person; and
 - (ii) relates to the operations of the licensed provider under the interactive gambling licence; or
- 25 (b) an ancillary gambling agreement.

113. Ancillary gambling agreement

(1) Subject to subsection (2), a licensed provider shall not enter into, or be a party to, an ancillary gambling agreement without the written approval of the Commissioner.

30 Penalty: 40 penalty units.

(2) Subsection (1) does not apply where—

- (a) the Commissioner considers the agreement to be an agreement of minor importance; or
- 35 (b) the agreement is of a class excluded from the application of this section under the regulations.

114. Approval of ancillary gambling agreements

(1) A licensed provider may apply to the Commissioner for approval to enter into an ancillary gambling agreement.

5 (2) The Commissioner may give the approval if he or she considers it appropriate or desirable in all the circumstances for the licensed provider to enter into the agreement.

(3) An approval shall be in writing.

115. Review of related agreements

10 (1) The Commissioner may, by written notice given to a licensed provider, require the licensed provider to give to the Commissioner, within the time stated in the notice—

(a) the information stated in the notice about a related agreement to which the licensed provider is a party, and

(b) if the agreement is in writing—a copy of the agreement.

15 (2) Without limiting subsection (1), the information that the Commissioner may require to be given about a related agreement includes the following:

(a) the names of the parties;

20 (b) a description of any property, goods or other things, or any services, supplied or to be supplied;

(c) the value or nature of the consideration;

(d) the term of the agreement.

25 (3) A licensed provider to whom a notice under this section has been given shall comply with the requirement within the time stated in the notice, unless the licensed provider has a reasonable excuse

116. Direction to terminate related agreement

(1) The Commissioner may direct the termination of a related agreement if he or she believes on reasonable grounds that the continuance of the agreement—

30 (a) may jeopardise the integrity of the conduct of interactive games by the licensed provider who is a party to the agreement; or

(b) may affect the public interest adversely.

(2) A direction under this section shall be given by written notice to each of the parties to the agreement.

35 (3) A notice shall state—

(a) the reasons for the decision to direct the termination of the related agreement; and

(b) the time within which the agreement is required to be terminated.

(4) If an agreement referred to in a notice under this section is not terminated within the time stated in the notice, it is terminated at the end of that time by virtue of this subsection.

5 (5) The termination of the agreement under a direction under this section or by virtue of subsection (4) does not affect any rights or liabilities acquired or incurred by a party to the agreement before the termination.

10 (6) The Territory does not incur any liability by reason of the termination of an agreement under a direction under this section or by virtue of subsection (4).

(7) A party to the agreement does not incur any liability for breach of the agreement by reason of the termination of an agreement under a direction under this section or by virtue of subsection (4).

Division 10—Official supervision

15 **117. Monitoring operations**

A licensed provider shall, at the request of the Commissioner, do anything reasonably necessary to allow an authorised tax officer to monitor the licensed provider's operations.

118. Presence of authorised tax officers at certain operations

20 (1) The Commissioner may take action under this section to ensure the integrity of the conduct of an authorised game.

(2) The Commissioner may, by written notice given to a licensed provider, direct the licensed provider—

- 25 (a) to refrain from carrying out any activity specified in the notice; or
(b) to refrain from doing a thing specified in the notice;

in the conduct of an authorised game unless an authorised tax officer is present.

(3) A licensed provider shall comply with a direction under this section.

Penalty: 40 penalty units.

30 *Division 11—Prizes*

119. Payment or collection of prizes

(1) If a player in an authorised game conducted by a licensed provider wins a monetary prize, the licensed provider shall immediately credit the amount of the prize to the player's account.

(2) If a player in an authorised game conducted by a licensed provider wins a non-monetary prize, or a player without a player's account wins a monetary prize, the provider shall—

- (a) have the prize delivered personally or by post to the player; or
- 5 (b) give the player written notice of an address in the Territory at which the prize may be collected

120. Disposal of unclaimed non-monetary prizes

(1) This section applies where a non-monetary prize in an authorised game conducted by a licensed provider has not been collected within 3
10 months after notification to the winner of the place at which it may be collected.

(2) Where this section applies, the licensed provider—

- (a) may dispose of the prize by public auction or tender or in some other way approved by the Commissioner;
- 15 (b) may pay for the disposal from the proceeds of sale; and
- (c) shall—
 - (i) pay the remainder of the proceeds into the relevant player's account;
 - 20 (ii) if there is no current player's account—remit the remainder of the proceeds to the former player; or
 - (iii) if there is no current player's account and the licensed provider is unaware of the whereabouts of the former player—deal with it in accordance with the regulations.

121. Claim for prize

25 (1) If a claim for a prize in an authorised game is made to a licensed provider within 5 years after the end of the game, the licensed provider shall—

- (a) immediately try to resolve the claim; and
- 30 (b) if the licensed provider is not able to resolve the claim—by written notice (in this section referred to as a “claim result notice”) given to the claimant, promptly inform the claimant—
 - (i) of the licensed provider's decision on the claim, and
 - (ii) that the person may, within 10 days of receiving the notice, ask the Commissioner to review the decision.

35 (2) If the claim is not resolved, the claimant may ask the Commissioner to review the licensed provider's decision on the claim.

(3) A request to the Commissioner under subsection (2)—

- (a) shall be in the approved form; and

- (b) if the claimant has received a claim result notice—shall be made within 10 days after receipt of the notice.

122. Entitlement to prize lapses if not claimed within 5 years

5 If an unpaid or undelivered prize is not claimed within 5 years after the end of the authorised game in which the prize was won, the entitlement to the prize is extinguished and the prize is forfeited to the Territory.

Division 12—Aborted games

123. Aborted games

10 (1) If, after making a wager in an authorised game conducted by a licensed provider, a player's participation in the game is interrupted by a failure of an operating or telecommunication system that prevents the player from continuing with the game, the licensed provider shall refund the amount of the wager to the player as soon as practicable.

15 (2) If an authorised game conducted by a licensed provider is started but miscarries because of human error, or a failure of an operating or telecommunication system, the licensed provider—

(a) shall immediately inform the Commissioner of the circumstances of the incident; and

20 (b) shall not conduct a further game if the game is likely to be affected by the same error or fault.

(3) After investigating the incident, the Commissioner may, by written notice to the licensed provider—

(a) direct the licensed provider to—

(i) refund the amounts wagered in the game to the players; and

25 (ii) if a player has an accrued credit at the time the game miscarries—pay to the player the monetary value of the credit; or

(b) give to the licensed provider such other directions as the Commissioner considers appropriate in the circumstances.

30 (4) A licensed provider shall comply with a direction under subsection (3).

(5) If a player entitled to a refund or other payment under this section has a player's account, the amount of the refund or other payment is to be paid into the account.

35 **124. Power to withhold prize in certain cases**

(1) A licensed provider who has reason to believe that the result of an authorised game has been affected by an illegal activity or malfunction of equipment may withhold a prize in the game.

(2) If a licensed provider withholds a prize under subsection (1), he or she—

(a) shall immediately inform the Commissioner of the circumstances of the incident; and

5 (b) shall not conduct a further game if a recurrence of the illegality or malfunction is likely

(3) After investigating the incident, the Commissioner may, by written notice to the licensed provider—

(a) direct the licensed provider to pay the prize; or

10 (b) confirm the licensed provider's decision to withhold the prize.

(4) A licensed provider who is directed to withhold a prize under paragraph (3) (b) shall refund the amounts wagered in the game

(5) A licensed provider shall comply with a direction under paragraph (3) (a).

15 ***Division 13—Approval and use of regulated interactive gambling equipment***

125. Approval of regulated interactive gambling equipment

(1) A licensed provider may, by application in writing accompanied by the determined fee, apply to the Commissioner—

20 (a) for approval of regulated interactive gambling equipment proposed to be used in the conduct of authorised games by the licensed provider; or

(b) for approval to modify regulated interactive gambling equipment used in the conduct of authorised games by the licensed provider.

25 (2) If the Commissioner believes that, in order to give proper consideration to the application, it is necessary for him or her to evaluate the equipment, or the equipment as proposed to be modified, he or she shall, as soon as practicable—

(a) require the applicant to pay the determined fee; and

30 (b) on payment of that fee, carry out the evaluation.

(3) The Commissioner shall approve, or refuse to approve, the equipment or modification and give to the applicant written notice of his or her decision.

35 (4) Where the Commissioner decides to refuse an application under this section, the notice under subsection (3) shall state the reasons for the decision

126. Use of regulated interactive gambling equipment

(1) A licensed provider shall not use regulated interactive gambling equipment in conducting an authorised game unless the equipment is approved interactive gambling equipment.

5 Penalty: 40 penalty units.

(2) An agent of a licensed provider shall not use regulated interactive gambling equipment for the conduct of an authorised game by the licensed provider unless the equipment is approved interactive gambling equipment.

Penalty: 40 penalty units.

10 (3) A licensed provider or agent shall not modify interactive gambling equipment that has been approved under section 125 in a manner that has not been approved by the Commissioner in writing.

Penalty: 40 penalty units.

Division 14—Advertising

15 **127. Advertising interactive gambling**

(1) A person shall not advertise an interactive game unless the game is an authorised game.

Penalty: 200 penalty units or imprisonment for 2 years.

20 (2) A person shall not advertise an authorised game without the approval of the relevant authorised provider.

Penalty: 40 penalty units.

128. Directions about advertising

(1) Where the Commissioner reasonably believes that an advertisement about an authorised game—

- 25 (a) is indecent or offensive;
(b) is not based on fact; or
(c) is false, deceptive or misleading in a material particular;

he or she may direct the person appearing to be responsible for authorising the advertisement to take appropriate steps—

- 30 (d) to stop the advertisement being shown; or
(e) to change the advertisement.

(2) A direction under this section—

- (a) shall be in writing;
(b) shall state the grounds for the direction; and

(c) if it is a direction to change the advertisement—shall state how the advertisement is to be changed.

(3) A person to whom a direction under this section is given shall not fail, without reasonable excuse, to comply with the direction.

5 Penalty: 40 penalty units.

Division 15—Complaints and improper behaviour

129. Inquiries about complaints

(1) A licensed provider shall inquire into—

(a) a complaint made to the licensed provider by a person about—

10 (i) the conduct of an authorised game by the licensed provider;
or

(ii) the conduct of an agent of the licensed provider in operations related to an authorised game; or

15 (b) a complaint referred to the licensed provider by the Commissioner under subsection (3).

(2) Within 21 days after a complaint is received by, or referred to, the licensed provider, the licensed provider shall give written notice of the result of the inquiry to—

(a) the complainant; and

20 (b) if the complaint was referred to the licensed provider by the Commissioner—the Commissioner.

(3) If a complaint is made to the Commissioner about the conduct of an authorised game, or the conduct of an agent in operations related to an authorised game, the Commissioner shall promptly—

25 (a) inquire into the complaint; or

(b) if the Commissioner considers it appropriate—

(i) refer the complaint to the licensed provider who conducted the game; or

30 (ii) if the authorised game is conducted by an external provider—refer the complaint to the relevant participating regulator.

(4) The Commissioner shall promptly advise the complainant of—

(a) the result of the Commissioner's inquiry; or

35 (b) the Commissioner's decision to refer the complaint to the licensed provider or a participating regulator;

as the case requires.

(5) This section does not apply in relation to a complaint unless the complaint—

- (a) is in writing;
- (b) states the complainant's name and address; and
- 5 (c) gives appropriate details of the complaint.

130. Reporting improper behaviour

(1) An authorised provider, within 3 days of becoming aware, or suspecting on reasonable grounds, that—

- 10 (a) a person, by a dishonest or unlawful act affecting the conduct or playing of an authorised game in the Territory, has obtained a benefit for the person or another person; or
- (b) there has been an unlawful act affecting the conduct or playing of an authorised game in the Territory;

15 shall give to the Commissioner a written notice advising the Commissioner of all facts known to the authorised provider about the matter.

Penalty: 200 penalty units or imprisonment for 2 years.

(2) An agent, within 3 days of becoming aware, or suspecting on reasonable grounds, that—

- 20 (a) a person, by a dishonest or unlawful act affecting the conduct or playing of an authorised game in the Territory, has obtained a benefit for the person or another person; or
- (b) there has been an unlawful act affecting the conduct or playing of an authorised game in the Territory;

25 shall give to the Commissioner a written notice advising the Commissioner of all facts known to the agent about the matter.

Penalty. 200 penalty units or imprisonment for 2 years.

(3) A person shall not—

- (a) refuse to employ;
- (b) dismiss from employment;
- 30 (c) in the course of employment, penalise; or
- (d) in any way prejudice the career of;

another person because the other person has given, or may give, a notice under this section.

Penalty: 200 penalty units or imprisonment for 2 years.

35 (4) It is a defence to a prosecution for a breach of subsection (3) that—

- (a) the defendant had another ground for engaging in the conduct alleged; and
- (b) that ground is a reasonable one

(5) In this section—

5 “dishonest act” means fraud, misrepresentation or theft.

Division 16—Gambling offences

131. Cheating

(1) A person shall not, in relation to an authorised game, dishonestly obtain a benefit by—

- 10 (a) an act, practice or scheme; or
- (b) the use of a thing.

Penalty: 200 penalty units or imprisonment for 2 years.

(2) For the purposes of subsection (1), a person obtains a benefit if the person—

- 15 (a) obtains for himself or herself or another person; or
- (b) induces a person to deliver, give or credit to the first-mentioned person or another person;

any money, benefit, advantage, valuable consideration or security.

132. Impersonating certain persons

20 A person shall not pretend to be a licensed provider, an agent or a key person licensee.

Penalty: 200 penalty units or imprisonment for 2 years.

133. Participation in authorised games by employees of licensed providers

25 (1) An employee (whether a key person licensee or not) of a licensed provider shall not take part in an authorised game.

Penalty: 40 penalty units.

30 (2) In addition to any penalty imposed under subsection (1), a court that convicts a person of an offence against that subsection shall order that the convicted person pay to the Territory a penalty equal to any amount that he or she may have won by way of prize in any game in relation to the participation in which he or she has been convicted.

134. Participation by minors in conduct of approved games prohibited

(1) A licensed provider or an agent shall not allow a person who is under 18 years of age to participate in the conduct of an authorised game.

5 Penalty: 200 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant believed on reasonable grounds that the person in relation to whom the alleged offence relates was over 18 years of age.

10 (3) A person who is under 18 years of age shall not, without reasonable excuse, participate in the conduct of an authorised game.

Penalty: 40 penalty units.

135. Participation by minors as players prohibited

15 (1) A person involved in the conduct of an authorised game shall not allow a person who is under 18 years of age to participate as a player in an authorised game.

Penalty: 40 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant believed on reasonable grounds that the person in relation to whom the alleged offence relates was over 18 years of age.

20 (3) A person who is under 18 years of age shall not, without reasonable excuse, participate as a player in an authorised game.

Penalty: 40 penalty units.

25 (4) In addition to any penalty imposed under subsection (1), a court that convicts a person of an offence against that subsection shall order that the convicted person pay to the Territory a penalty equal to any amount that he or she may have won by way of prize in any game in relation to the participation in which he or she has been convicted.

136. Offensive names prohibited

30 A person shall not participate in an authorised game under a name or designation that is obscene, indecent or offensive.

Penalty: 20 penalty units.

137. Interference with conduct of authorised games

A person shall not, without the Commissioner's written authorisation, interfere in the conduct of an authorised game.

35 Penalty: 200 penalty units.

138. Offences by certain persons

(1) A person, other than an authorised provider or an agent acting within the scope of the agent's authority, shall not, for his or her gain or reward—

- (a) induce anyone else to take part in an authorised game,
- 5 (b) offer to anyone else an opportunity to take part in an authorised game;
- (c) distribute or supply forms for registration as a player in an authorised game (in this section referred to as a "player registration form"); or
- 10 (d) cause player registration forms to be distributed or supplied to persons other than authorised providers or agents

Penalty: 200 penalty units

(2) A person, other than an authorised provider or an agent acting within the scope of the agent's authority, shall not—

- 15 (a) advertise; or
- (b) publicly promote subscription to, or taking part in; an authorised game.

Penalty: 200 penalty units.

(3) A person shall not charge an amount for—

- 20 (a) filling in a player registration form.
- (b) depositing a player registration form, directly or indirectly, with a licensed provider or an agent;
- (c) submitting, or arranging for the submission of, a player registration form to a licensed provider or an agent; or
- 25 (d) collecting or distributing prizes in an authorised game.

Penalty: 200 penalty units.

(4) A person shall not hold himself or herself out to be available to perform a service mentioned in subsection (2).

Penalty: 200 penalty units.

30 **139. Licensed providers not to publish identity of players in certain cases**

(1) A licensed provider, an employee of a licensed provider or any other person engaged in duties related to the conduct of an authorised game shall not—

- 35 (a) disclose information about the name, or other identifying particulars, of a player; or

- (b) use information about a player for a purpose other than the purpose for which the information was given.

Penalty: 40 penalty units.

5 (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the disclosure or use (as the case requires) was—

- (a) authorised by the relevant player;
- (b) required for the administration or enforcement of this Act, the *Taxation (Administration) Act 1987* or a corresponding law; or
- 10 (c) otherwise required by law.

PART VIII—ADMINISTRATIVE REVIEW

140. Interpretation

In this Part—

“primary decision” means a decision of the Minister—

- 15 (a) refusing an application for an interactive gambling licence under subsection 27 (1);
- (b) imposing a condition on an interactive gambling licence under section 32;
- 20 (c) changing a condition on an interactive gambling licence under subsection 33 (1);
- (d) adding a condition to an interactive gambling licence under subsection 33 (1);
- (e) failing to approve a mortgage, charge or other encumbrance over an interactive gambling licence under subsection 37 (1);
- 25 (f) failing to approve a transfer of an interactive gambling licence under subsection 37 (2);
- (g) directing the notification of a specified matter under subsection 40 (2);
- 30 (h) suspending an interactive gambling licence under subsection 41 (1);
- (i) suspending an interactive gambling licence under subsection 42 (1);
- 35 (j) cancelling an interactive gambling licence under subsection 43 (1);
- (k) appointing an administrator under subsection 44 (1);

- (l) failing to cancel the suspension of an interactive gambling licence under paragraph 45 (a), or
- (m) failing to reduce the remaining period of the suspension of an interactive gambling licence under paragraph 45 (b);

5 “reviewable decision” means a primary decision in respect of which a certificate under section 46 has not been signed.

141. Review of Minister’s decisions

(1) Application may be made to the Administrative Appeals Tribunal for review of a reviewable decision.

10 (2) Where a primary decision is made, the Minister shall cause notice in writing of the decision to be given to the person affected by the decision.

(3) A notice under subsection (2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

142. Review of Commissioner’s decisions

(1) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Commissioner—

- (a) imposing a condition on a key person licence under subsection 54 (1);
- 20 (b) altering a condition of a licence under paragraph 55 (1) (c);
- (c) omitting a condition from a licence under paragraph 55 (1) (d);
- (d) adding a condition to a licence under paragraph 55 (1) (e);
- (e) refusing to issue a replacement licence under subsection 58 (1);
- (f) suspending a key person licence under subsection 62 (1);
- 25 (g) cancelling a key person licence under subsection 65 (1);
- (h) directing that an agency agreement be amended under subsection 72 (1); or
- (i) prohibiting a person from participating in authorised games under paragraph 102 (1) (a).

30 (2) Where a decision referred to in subsection (1) is made, the Commissioner shall give notice in writing of the decision to the person affected by the decision.

35 (3) A notice under subsection (2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

PART IX—MISCELLANEOUS

143. Destruction of prints and photographs

Where—

- 5 (a) an application by a person to the Minister or the Commissioner for a licence under this Act is refused; or
(b) a licence held by a person is surrendered or cancelled;

10 and the person had lodged with the Minister or the Commissioner, in connection with the application referred to in paragraph (a) or the application for the licence referred to in paragraph (b), the imprint of his or her finger or palm prints or a photograph of the applicant, the Minister or Commissioner, as the case requires, shall cause to be destroyed—

- (c) the imprint of the finger prints and palm prints, and the photograph, of that person, that accompanied that application or the application for that licence, as the case may be; and
15 (d) any copy of that imprint, or those imprints, and of that photograph, that is in the possession or control of the Minister or Commissioner for a purpose connected with that application, or the application for that licence, as the case requires.

144. Conduct of directors, servants and agents

20 (1) Where, for the purposes of this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—

- (a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and
25 (b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority.

(2) A reference in subsection (1) to the state of mind of a body or person shall be read as including a reference to—

- 30 (a) the knowledge, intention, opinion, belief or purpose of the body or person; and
(b) the body's or person's reasons for the intention, opinion, belief or purpose.

35 (3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

(4) Where—

- (a) a natural person is convicted of an offence against this Act, and
- (b) the person would not have been convicted of the offence if subsections (1) and (3) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

5 (5) A reference in this section to a director of a body corporate is to be read as including a reference to a member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.

10 (6) A reference in this section to engaging in conduct shall be read as including a reference to failing or refusing to engage in conduct

145. Power of Minister to determine fees

The Minister may, by notice in writing published in the *Gazette*, determine fees, or methods of calculating fees, for the purposes of this Act.

146. Register of interactive gambling licences

15 (1) The Commissioner shall establish and maintain, in such form as he or she deems fit, a register of interactive gambling licences issued under this Act on which there shall be entered—

- (a) particulars of the person to whom the licence has been issued;
- 20 (b) particulars of the issue and any suspension, cancellation or surrender of the licence;
- (c) particulars of any conditions to which the licence is subject; and
- (d) any other particulars that the Commissioner considers appropriate.

(2) A person may peruse and make copies of the register under this section at the office of the Commissioner during ordinary business hours

25 147. Approval of forms

The Commissioner may approve forms for the purposes of this Act.

148. Regulations

The Executive may make regulations for the purposes of this Act.

149. Amendment of the Taxation (Administration) Act

30 Section 3 of the *Taxation (Administration) Act 1987* is amended by inserting after paragraph (da) the following paragraph:

“(db) the *Interactive Gambling Act 1998*,”

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*