

## EXPLANATORY STATEMENT

### AUSTRALIAN CAPITAL TERRITORY

### CASINO CONTROL ORDINANCE 1988

#### ORDINANCE NO. 72 OF 1988

The Casino Control Ordinance 1988 (the Ordinance) gives effect to a decision of the Government, following an extended period of community discussion, and establishes a casino in the ACT. The granting of a licence to operate a casino is dependent upon the inclusion in the casino development of facilities for cultural or recreational purposes.

The Ordinance provides that irrespective of other ACT legislation such games as authorised by the Minister may be played in the casino.

The Ordinance allows the Minister to enter into an agreement with a developer to build the casino subject to the Minister being satisfied that the developer and senior officers meet relevant suitability requirements. The suitability requirement criteria are identified in the Ordinance.

The Ordinance establishes a Casino Surveillance Authority to supervise the operation of the casino, grant licences to casino employees and make recommendations to the Minister as to the appointment of the casino developer, casino licensee and any assignment of the casino lease. The Casino Surveillance Authority will also make recommendations to the Minister about legislation relating to the control and operation of the casino.

The casino is operated by the casino licensee.

The Minister has power, subject to any recommendation of the Casino Surveillance Authority, to grant a licence to a person to operate the casino and for the licence to be assigned. Successful applicants must satisfy the suitability requirement criteria.

The Ordinance provides that casino employees who performs certain functions must obtain either a key employee or operations employee licence. The objective of this licence requirement is to ensure that only fit and proper persons who are either Australian citizens or permanent residents of Australia are employed in key areas. The Casino Surveillance Authority grant licences and the Ordinance details the criteria the Authority will consider when deciding whether to grant a licence. A refusal by the Authority to grant a licence is subject to review by the Administrative Appeals Tribunal.

The proposed Ordinance contains provisions providing search, entry and seizure powers for persons appointed inspectors under the Ordinance and police officers. The search, entry and seizure powers may be exercised pursuant to a warrant issued under the proposed Ordinance, with the consent of the occupier of the premises or pursuant to a court order. The application of these powers is restricted to offences against the proposed Ordinance or an offence that is related to an offence against the proposed Ordinance.

The Ordinance also provides emergency search and seizure powers. However these powers will be restricted to situations where an inspector or police officer believes on reasonable grounds that it is necessary to exercise the emergency power in order to prevent the concealment, loss or destruction of a thing and the circumstances are so serious and urgent that they require immediate action without obtaining a search warrant or court order.

The Minister may appoint an administrator to run the casino where the casino licence is suspended or cancelled.

The Minister can not specifically direct the Casino Surveillance Authority about casino operations, however, the Minister may refer matters to the Casino Surveillance Authority for investigation.

The Ordinance also provides for the appointment of a chief casino inspector and inspectors with powers to initiate investigations into the operation and security of the casino.

The Ordinance gives the Commissioner of Police power to exclude a person from the casino where the Commission believes on reasonable grounds that such a person has engaged in, or been associated with persons who have engaged in, swindling cheating or any malpractice in gaming. Any such exclusion is subject to review by the Administrative Appeals Tribunal.

Details of the Ordinance are set out in the Attachment.

ISSUED BY AUTHORITY OF THE  
MINISTER OF STATE FOR THE  
ARTS AND TERRITORIES

Casino Control Ordinance 1988

Part I comprises sections 1 to 3 and deals with preliminary matters concerning the Ordinance.

Section 1 cites the short title of the Ordinance as the Casino Control Ordinance 1988.

Section 2 provides that the Ordinance shall come into operation on such date as is fixed by the Minister and notified in the Gazette.

Section 3 deals with interpretation.

Subsection 3(1) defines various words and phrases used in the proposed Ordinance. Subsections 3(2) and 3(3) provide, respectively, that a reference to a developer or a proprietor shall, if there are 2 or more developers or proprietors, refer to each of those developers or proprietors as the case may be.

Subsection 3(4) details the suitability requirement criteria that a person must satisfy before being granted certain licenses or leases, such as a casino licence under section 45 or a lease under section 52 for the purposes of the Ordinance. These criteria are that the person:

- (a) has a reputation for sound business conduct;
- (b) in the case of a natural person - has a reputation for sound character;
- (c) is not associated in business, and has not entered into financial arrangements, with any person who does not have a reputation for sound character and business conduct;
- (d) has a business reputation demonstrating the capacity to achieve -
  - (i) in the case of the developer - the successful development of the casino; and
  - (ii) in any other case - the successful operation of the casino;
- (e) in the case of the developer and proposed casino licensee -
  - (i) is not associated in business, and has not entered into financial arrangements, with any person who has conducted business with inadequate financial resources; and

- (ii) has, or is able to obtain, financial resources that are adequate to develop the casino successfully in accordance with the development agreement, or to operate the casino successfully as the case requires;
- (f) in the case of the proposed casino licensee - has, or is able to obtain the services of a sufficient number of persons who -
  - (i) have a reputation for sound character; and
  - (ii) have adequate relevant experience to achieve the successful operation of the casino;
- (g) in the case of the developer - is, in relation to any other matter relevant to the development of the casino, suitable to participate in that development; and
- (h) in the case of a person other than the developer - is, in relation to any other matter relevant to the operation of the casino, suitable to participate in that operation.

Subsection 3(5) provides that for the purposes of the Ordinance an offence shall be taken to be related to an offence against the Ordinance if it is an offence:

- (a) against or arising out of Part VIII of the Crimes Act 1900 of the State of New South Wales in its application to the ACT; and
- (b) that relates to the offence against this Ordinance.

Part II consists of 4 Divisions and deals with games to be played in the casino, the appointment of a chief casino inspector and inspectors, licence fees and taxation and Parliamentary tabling requirements in respect of certain agreements.

Division 1 comprises sections 4 to 7 and deals with the casino.

Section 4 provides that the Minister may, for the purposes of the Ordinance, designate by a notice published in the Gazette the area that will become the casino.

Section 5 deals with the lawfulness of a casino operations by providing that any game authorised by the Minister under section 71 of the Ordinance may be played in the casino.

Subsection 5(1) provides that notwithstanding any other law of the Territory (such as the Unlawful Games Ordinance 1984) it is lawful for:

- (a) a casino licensee or casino employee to conduct an authorised game at the casino;
- (b) a person to play an authorised game in the casino; or

- (c) a person to use gaming equipment or chips in the conduct and playing of an authorised game.

Subsection 5(2) provides that a casino is not be taken to be a public or private nuisance (and therefore subject to the Gaming and Betting Act 1906 and the Games, Wagers and Betting-houses Act 1901) by reason only that it is used as a gaming house.

Subsection 5(3) provides that the section does not operate to enable an action to be brought in a Court to recover:

- (a) money won in the course of gaming in the casino;
- (b) money, or a cheque or other instrument, given in payment of money so won; or
- (c) money wagered in the course of gaming in the casino, being money that was lent in the knowledge that it was to be applied in that manner;

unless it is money won from, or wagered with, the casino licensee.

Section 6 deals with the recording of the names of persons excluded from the casino by the direction of the Commissioner of Police under subsection 69(1) of the Ordinance.

Subsection 6(1) provides that the casino licensee is required to maintain a list of the names of persons excluded from the casino under directions made pursuant to subsection 69(1).

Subsection 6(2) requires the casino licensee to provide to the Authority or to the chief casino inspector a copy of the list referred to in subsection 6(1). A penalty of \$5,000 for a body corporate and \$1,000 for a natural person applies with respect to breaches of this section.

Section 7 provides that unless indicated otherwise the Liquor Ordinance 1975 which regulates the sale and consumption of liquor in the Territory applies in relation to the casino.

Division 2 comprises sections 8 to 14 and deals with the appointment of the chief casino inspector and other inspectors and their functions and powers.

Section 8 obliges the Minister to appoint, in writing, a chief casino inspector who is responsible for ensuring the proper operation of the casino.

Subsection 8(1) provides that there shall be a chief casino inspector appointed by the Minister.

Subsection 8(2) provides that the Minister shall appoint a Chief casino inspector by instrument.

Subsection 8(3) requires the appointee to be an officer or employee within the meaning of the Public Service Act 1922.

Section 9 details the functions of the chief casino inspector.

Subsection 9(1) provides that the chief casino inspector is:

- (a) to ensure the proper and efficient performance of the functions of the Authority as specified in paragraph 23(1)(a);
- (b) to direct the activities of inspectors;
- (c) to furnish advice to the Authority in respect of such matters relating to its function as the Authority directs; and
- (d) to assist the Authority in certain matters relating to the performance of its functions as the Authority directs.

Subsection 9(2) provides that in addition to the functions outlined in subsection 8(1) the chief casino inspector shall have such functions as are conferred on him or her by the Ordinance and by the Authority.

Section 10 deals with the powers of the chief casino inspector. These powers are to do all things necessary or convenient to be done for or in connection with the performance of his or her functions and also to exercise any of the powers of an inspector.

Section 11 deals with the appointment of inspectors.

Subsection 11(1) provides that the Minister may appoint inspectors for the purposes of the Ordinance.

Subsection 11(2) provides that a person is not be eligible for appointment unless that person is an officer or employee within the meaning of the Public Service Act 1922.

Subsection 11(3) requires an inspector to perform such duties as are required by the Ordinance.

Section 12 deals with the issue of identity cards to inspectors.

Subsection 12(1) requires the Minister to issue to each inspector an identity card bearing his or her name and appointment and a recent photograph of the inspector.

Subsection 12(2) requires an inspector to return his or her identity card to the Minister upon ceasing to be an inspector.

Subsection 12(3) creates an offence in that a person who, without a reasonable excuse, fails to comply with subsection 12(2) could be subjected to a fine not exceeding \$100.

Section 13 establishes the right of an inspector, in the performance of his or her duties, to enter and remain on the premises of the casino.

Subsection 13(1) provides that an inspector may at any time enter and remain on the premises of the casino for the purposes of:

- (a) viewing gaming;
- (b) observing any of the operations of the casino;
- (c) ascertaining whether the operation of the casino is being properly conducted, supervised and managed;
- (d) ascertaining whether the provisions of the proposed Ordinance are being complied with; and
- (e) in any other respect, exercising his or her powers in performing his or her duties.

Subsection 13(2) provides that an inspector is not authorised to remain in the casino if, on the request of a casino employee, the inspector does not show his or her identity card to the employee.

Section 14 deals with the powers of an inspector.

Paragraph 14(1)(a) provides that an inspector may, where he believes on reasonable grounds that a person has in his or her possession gaming equipment or chips, require that person under subparagraph 14(1)(a)(i) to provide the equipment or chips for inspection or testing or under subparagraph 14(1)(a)(ii) to attend at a reasonable time and place a hearing and answer such questions or supply such information as the inspector specifies.

Paragraph 14(1)(b) provides that an inspector may require an interested person under subparagraph 14(1)(b)(i) to produce such records that the person may have in his or her custody or control relating to the casino or operation of the casino as the inspector specifies or under 14(1)(b)(ii) to attend at a reasonable time and place a hearing to answer such questions, supply such information or produce such records relating to the casino or operation of the casino as the inspector specifies.

Paragraph 14(1)(c) provides that an inspector may inspect or test any gaming equipment or chips or inspect such records and take copies of or make notes where such records relate to the casino or operation of the casino.

Paragraph 14(1)(d) provides that an inspector may direct the casino licensee not to use gaming equipment or chips that the inspector considers unsatisfactory for use.

Paragraph 14(1)(e) provides that an inspector may receive and, if the inspector thinks appropriate, investigate a complaint about the operation of the casino and advise the complainant of the results of any investigations.

Paragraph 14(1)(f) provides that an inspector may call for assistance from another inspector or a casino employee who the inspector believes is competent to assist.

Subsection 14(2) provides that a requirement outlined by an inspector under paragraphs 14(1)(a) or (b) or a direction made under paragraph 14(1)(d) may be made by notice in writing or orally where the inspector is satisfied that special circumstances exist.

Subsection 14(3), for the purposes of section 14, defines an interested person to mean:

- (a) the casino lessee;
- (b) the casino licensee;
- (c) the developer;
- (d) the proprietor;
- (e) a casino employee; or
- (f) any other person associated with the management or operation of the casino.

Division 3 consists of section 15 to 17 and deals with casino licence fees and taxation.

Section 15 provides that the Minister may determine a casino licence fee.

Subsection 15(1) provides that the Minister may determine casino licence fees by notice published in the Gazette.

Subsection 15(2) provides that the fee is payable to the Authority as is specified in the notice under subsection 15(1).

Subsection 15(3) provides that a determination made under subsection 15(1) must not be made more often than each 12 months.

Subsection 15(4) provides that a daily penalty of 20 per cent per annum be imposed if any part of the fee remains unpaid 14 days after the due date for payment.



Subsection 15(5) provides that the penalty compounds at 3 monthly intervals.

Subsection 15(6) gives the Minister a discretion to remit any part or the whole of the penalty.

Subsection 15(7) deems the casino licence fee and daily penalty to be debts due to the Authority which may be recovered by action in Court.

Section 16 deals with taxation of the gross profit derived by the casino licensee from the operation of the casino.

Subsection 16(1) provides that taxation is payable each month with respect to such profit.

Subsection 16(2) allows the Minister from time to time to determine the rate of taxation, and such determination must be notified by publication in the Gazette.

Subsection 16(3) provides that such notice must also specify the time and manner in which the tax is payable to the Commonwealth.

Subsection 16(4) defines gross profit for the purposes of section 16.

Section 17 provides that the liability of the casino licensee in respect of the casino licence fee and the tax determined under section 16 are not affected by a suspension of the casino licence and still continues to be payable by the casino licensee. The licence fee is payable to the Authority and the tax to the Commonwealth.

Division 4 comprises of sections 18 to 21 and deals with investigations, self incrimination, secrecy, and tabling requirements in respect of certain agreements.

Section 18 deals with investigations.

Subsection 18(1) will empower the Authority to authorise by instrument the chief casino inspector, an inspector or any other person to conduct an investigation into a matter specified in the instrument other than a matter involving the commission or possible commission of an offence against the Ordinance or any other law in force in the ACT.

Subsection 18(2) provides that an inspector may, to enable an investigation to be properly conducted and after warning a person of the obligation to comply, issue a notice in writing requiring the person, within 21 days of issuing the notice, to:

- (a) furnish either orally or in writing such information as is specified in the notice;
- (b) produce such documents containing records relating to the casino or operation of the casino in the custody or control of that person;
- (c) produce any other documents in the custody or control of that person; or
- (d) answer questions specified in the notice either orally or in writing.

to the inspector.

Subsection 18(3) enables an investigator to inspect documents produced under subsection 18(2) and to make copies of, or take extracts from, the parts of the document that are relevant to the investigation.

Subsection 18(4) creates an offence by providing that a person who, or a body corporate which, without reasonable excuse:

- (a) refuses or fails to comply with a requirement made under subsection (2); or
- (b) knowingly or recklessly furnishes false information or gives an answer that is false or misleading in a material particular

shall be guilty of an offence and may be subjected to a fine of \$2,000 if a natural person or \$10,000 if a body corporate.

Section 19 deals with self incrimination. The section provides that a person is not excused from furnishing information, producing a document or answering a question required under a notice issued under subsection 18(2) on the grounds of self incrimination. However, any information, document or answer given and any information or thing (including any document) obtained as a direct or indirect consequence of subsection 18(2) is not be admissible in evidence against the person in any criminal or civil proceeding, other than a proceeding under subsection 19(2) or under Division 6 of Part III of the Public Service Act 1922.

Section 20 deals with secrecy.

Subsection 20(1) prohibits a person from making a record of or divulging any information concerning the affairs of another person gained in the performance of duties or the exercise of powers under the Ordinance except for the purposes of performing those duties or exercising those powers. This provision is subject to subsection 20(3). A

penalty applies for non-compliance with this provision of \$2,000 or 12 months imprisonment.

Subsection 20(2) provides that subject to subsection 20(5) a person shall not, except for the purposes of the Ordinance be required to produce in Court documents or divulge to a Court any information that has come under his or her control or notice in the performance of duties, or exercise of powers under the Ordinance.

Subsection 20(3) specifies the people to whom information may be divulged. This includes:

- (i) such persons as the Minister directs where the Minister certifies that it is in the public interest for the information to be divulged;
- (ii) a prescribed authority or prescribed person; or
- (iii) a person expressly or impliedly authorised by the person to whom the information relates to obtain it.

Subsection 20(4) provides that where information is divulged to an authority or person under subsection 20(3), the authority or person and a person or employee under the control of that authority or person shall, in respect of that information, be subject to the rights, privileges, obligations and liabilities as if they were performing duties under the Ordinance and obtained the information in the performance of those duties.

Subsection 20(5) sets out the situations in which a person may divulge information or produce documents to a Court. These are where the Minister certifies that it is in the public interest for the specific information to be divulged or where the person to whom the information relates expressly authorises the information to be divulged and the person is required to produce or divulge the information.

Section 21 requires the Minister to table before both House of the Parliament as soon as practicable a copy of the development agreement, any control agreement, any casino lease; any casino operation agreement, any casino licence; the instrument under subsection 39(1); any approval under subsection 41(1); any notice issued under subsection 45(2); any notice of suspension or cancellation under subsection 49(6); any notice under 49(5); any approval under subsection 50(1); any instrument under subsection 51(1) appointing an administrator; any approval under subsection 54(1) and any certificate signed or received by the Minister under section 128.

Part III comprises 3 Divisions and establishes and identifies the functions of the Casino Surveillance Authority (the Authority) detail its constitution and provide for finance. The Authority is responsible for the satisfactory operation of the casino.

Division 1 comprises sections 22 to 24 and deals with the establishment, functions and powers of the Authority.

Section 22 deals with the establishment of the Authority.

Subsection 22(1) establishes the Authority.

Subsection 22(2) provides that the Authority is a body corporate with perpetual succession, has a common seal and is able to sue and be sued in its corporate name.

Subsection 22(3) provides that the common seal shall be kept as the Authority directs and be used only by the Authority, and subsection 22(4) provides that the courts, judges and persons acting judicially shall take judicial notice of the seal.

Section 23 defines the functions of the Authority.

Subsection 23(1) provides that the functions of the Authority are to:

- (i) supervise the operation of the casino;
- (ii) make recommendations to the Minister in relation to the casino's opening hours and the games and rules of the games to be played in the casino;
- (iii) inquire into, and make recommendations to the Minister on the suitability of a proposed developer, proposed proprietor or proposed casino lessee; the casino licensee or a nominee as casino licensee; the proposed assignee of the casino licence; or a proposed administrator to be appointed for the purposes of section 51;
- (iv) inquire into, and make recommendations to the Minister, either of its own notion or on matters referred to it by the Minister, relating to the control or operations of the casino; and
- (v) make recommendations to the Minister with respect to the laws that should be made in relation to the control or operations of the casino.

Subsection 23(2) provides that the Authority shall have such other functions as are conferred on it by other provisions of the Ordinance.

Section 24 provides the Authority with such power to do all things necessary or convenient to be done in order to carry out its functions.

Division 2 comprises sections 25 to 36 and deals with the constitution and meetings of the Authority.

Section 25 provides that the Authority consists of a Chairperson and four other members.

Section 26 deals with the appointment of members of the Authority.

Subsection 26(1) provides that members of the Authority shall be appointed by the Minister.

Subsection 26(2) requires that the person appointed to be the Chairperson is, or has been, a Judge of the Family Court of Australia, a Judge of the Federal Court of Australia, a Judge of the Supreme Court or the Supreme Court of a State or the Northern Territory, or has been enrolled as a legal practitioner of the High Court or the Supreme Court of a State or Territory for at least 10 years.

Subsection 26(3) requires that the Authority shall have one member with accountancy qualifications, one member with extensive public administration experience and one member who shall be a Minister of religion or a person of comparable standing in the community.

Subsection 26(4) provides that the Minister shall not appoint a member to the Authority if the Minister is satisfied that the person has or during the proceeding 3 years has had either directly or indirectly any business or financial association or interest with or been either direct or indirect employed by an involved person.

Subsection 26(5) provides that the appointment of a member is not invalidated by any defect or irregularity in that appointment.

Section 27 deals with the term of office of members of the Authority.

Subsection 27(1) provides that a member shall be appointed with effect from the day specified in the instrument of appointment, shall hold office for such period (not exceeding 3 years) as is specified in the instrument of appointment and be eligible for reappointment.

Subsection 27(2) provides for the appointment of another person to a member's office, for the duration of the members term, where the member leaves office before the end of his or her term of appointment.

Section 28 provides that a member holds office on a part-time basis.

Section 29 provides for the remuneration and allowances of members of the Authority.

Subsection 29(1) provides that members be paid such remuneration and allowances as are prescribed.

Subsection 29(2) provides that subsection (1) does not apply if there exists a subsisting determination in relation to remuneration or allowances.

Subsection 29(3) provides that the term determination in subsection 29(2) means a determination of the Remuneration Tribunal.

Section 30 provides that the Minister may grant to the Chairperson leave of absence on such terms and conditions as the Minister considers appropriate and the Chairperson may similarly grant leave of absence to other members.

Section 31 provides that a member may resign his or her office by writing delivered to the Minister.

Section 32 deals with disclosure of interests by members of the Authority.

Subsection 32(1) requires a member to disclose, at a meeting of the Authority, as soon as possible after the relevant facts have come to the member's knowledge, any direct or indirect pecuniary interest in any matter under consideration or to be considered by the Authority.

Subsection 32(2) requires the Authority to record a disclosure in the minutes of the Authority and unless the Minister or of the Authority otherwise determines, the member making such a disclosure is not to be present at any deliberation or to take part in any decision of the Authority concerning the matter.

Subsection 32(3) provides that the member making the disclosure shall not be present at any deliberation of the Authority in relation to the determination or take part in the making of such a determination.

Section 33 deals with the termination of appointment of a member of the Authority.

Subsection 33(1) provides that the Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

Subsection 33(2) provides that the Minister shall terminate the appointment of a member for the following reasons:

- (a) if the member becomes bankrupt seeks relief under a law, compounds with creditors or seeks an assignment of his or her remuneration for the benefit of creditors;
- (b) if the member, without reasonable excuse, contravenes section 32;

- (c) is convicted of an offence under a law relating to gaming or betting or casinos, or an offence under a law punishable on conviction by imprisonment for a period of not less than 6 months;
- (d) being the Chairperson, except with the leave of the Minister, from 3 consecutive meetings of the Authority;
- (e) if a member, other than Chairperson is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Authority.

Section 34 provides that a member shall hold office on such terms and conditions, not provided for in the Ordinance, as may be determined by the Minister in writing.

Section 35 deals with acting appointments.

Subsection 35(1) provides that the Minister may appoint a person to act as Chairperson when there is a vacancy in the office of Chairperson, or when the Chairperson is absent from the ACT or unable to perform the duties of the office.

Subsection 35(2) provides a similar power of appointment upon the Minister with respect to a vacancy in the office of a member or when the member is absent from the ACT or unable to attend meetings of the Authority.

Subsection 35(3) provides that things done by an acting appointee are not invalidated merely by reason:

- (a) that the occasion for the appointment had not arisen;
- (b) of defects or irregularities in the appointment;
- (c) that the appointment had ceased to have effect; or
- (d) that the occasion for the person to act had not arisen or had ceased.

Section 36 deals with meetings of the Authority.

Subsection 36(1) empowers the Authority to hold such meetings as are necessary for the efficient performance of its functions.

Subsection 36(2) provides that meetings of the Authority shall be held at such times and places as the Authority determines.

Subsection 36(3), provides that the Chairperson may convene a meeting of the Authority at any time.

Subsection 36(4) provides that the Chairperson must preside at all meetings.

Subsection 36(5) provides that a Chairperson and 2 other members constitute a quorum at a meeting, and that a question shall be decided by a majority of the votes of the members present and voting. The Chairperson has a deliberative vote and also a casting vote. This subsection also requires the Authority to keep minutes of its proceedings.

Division 3 comprises sections 37 and 38 and deals with finance.

Section 37 provides that the money of the Authority consists of money paid on the granting of the casino licence, amounts paid to the Authority by way of fees for the issue or renewal of casino employee's licences, or the issue of copies of such licences and any other amounts paid to the Authority.

Section 38 requires that the money of the Authority be applied only:

- (a) in payment or discharge of expenses and liabilities incurred by the Authority; and
- (b) in payment of remuneration and allowances payable to members.

Part IV comprises sections 39 to 44 and deals with development and control agreements in relation to the casino.

Section 39 deals with the approval of a developer for the development of the casino.

Subsection 39(1) provides the Minister with a discretion to approve, by instrument in writing, a company or companies for the purpose of undertaking the development of the casino. Such a company or companies must propose to own the casino.

Subsection 39(2) provides, that in approving a company as the developer, the Minister shall have regard to any recommendations made by the Authority concerning the suitability of the company.

Section 40 deals with the development agreement.

Subsection 40(1) provides the Minister with a discretionary power to enter into an agreement with the developer for the development and ownership of the casino.

Subsection 40(2) provides that an agreement may be varied from time to time by a further agreement entered into between the Minister and the developer.

Subsection 40(3) provides that the Minister shall not enter into an agreement under either subsection (1) or (2) unless the Minister is satisfied that:



- (a) the developer satisfies the relevant suitability requirements; and
- (b) any director, secretary or other officer of the developer is likely to be involved in the development of the casino is a fit and proper person to be so involved.

Section 41 deals with the sale of the casino.

Subsection 41(1) enables the owner of the casino, with the Minister's approval in writing, to sell or otherwise dispose of the casino to another company or other companies.

Subsection 41(2) requires that the Minister shall not give an approval for the purposes of subsection (1) unless the Minister is satisfied that the company or each of the companies proposing to acquire the casino satisfies the relevant suitability requirements.

Subsection 41(3) requires the Minister to have regard to any recommendations made by the Authority concerning the suitability of the company for the purposes of giving an approval for the sale of the casino.

Section 42 deals with control agreements for the operation of the casino.

Subsection 42(1) provides that where the Minister gives an approval for the sale of the casino under subsection 41(1), the Minister may enter into an agreement with the proprietor - being the company to which the casino is sold - for the operation of the casino.

Subsection 42(2) provides that an agreement referred to in subsection (1) may be varied from time to time by a further agreement entered into between the Minister and the proprietor.

Section 43 sets out the provisions that an agreement shall include.

Subsection 43(1) will specify the provisions as being:

- (a) matters relating to the grant of the casino licence;
- (b) the ownership and control of the developer, or proprietor, as the case requires;
- (c) the ownership of the casino;
- (d) the operation of the casino and such related matters as the Minister considers necessary; and

- (e) in the case of the development agreement, the location and siting of the casino, and the development and commissioning of the casino.

Subsection 43(2) defines the term agreement for the purposes of the section as being both a development agreement and a control agreement.

Section 44 requires the Minister to cause a notification of the making of a development agreement or a control agreement to be published in the Gazette.

Part V comprises sections 45 to 51 and deals with the casino licence.

Section 45 deals with the granting of a casino licence.

Subsection 45(1) provides that the Minister shall grant a casino licence to a person nominated by -

- (a) the developer under the development agreement as the proposed casino licensee,
- (b) by the proprietor under a control agreement, or
- (c) by the casino lessee under an arrangement entered into between the lessee and the developer or proprietor.

Subsection 45(2) provides that the Minister shall not grant a casino licence to a person unless satisfied that the person satisfies the relevant suitability requirement.

Subsection 45(3) provides that the Minister shall not grant a casino licence unless the Minister is satisfied that proper arrangements have been made for the timely provision of community facilities associated with the development of the casino and the Minister issues a notice describing these arrangements.

Subsection 45(4) requires the Minister to have regard to the Authority's recommendations with respect to the suitability of a proposed casino licensee.

Subsection 45(5) provides that the casino licence shall be in a form approved by the Minister, must identify the area designated under section 4 as the casino, and specify:

- the date of the licence's issue and expiration;
- the name of the licensee;
- an address in the ACT specified by the license for the service of documents on the licensee;
- the address of the casino; and
- such other particulars relating to the casino as the Minister considers necessary or as are prescribed.

Subsection 45(6) requires the Minister to give notice in writing of a refusal to grant a casino licence to any casino lessee and the casino owner and, unless the decision is based on security consideration, of the grounds for the decision.

Section 46 provides that a casino licence remains in force, except while suspended until the expiry date unless it is sooner surrendered or cancelled.

Section 47 deals with the situation whereby a casino licence may be surrendered.

Subsection 47(1) provides that a casino licensee may surrender the casino licence at any time.

Subsection 47(2) provides that a casino licence may not be surrendered if an amount of tax or the casino licence fee, including any penalty, is payable to the Commonwealth or the Authority.

Subsection 47(3) provides that a casino licence is deemed to be surrendered where a casino licensee ceases to be responsible for the operation of the casino, except where the licensee has assigned the casino licence under to section 50.

Section 48 deals with the suspension or cancellation of a casino licence.

Subsection 48(1) sets out the grounds for the suspension or cancellation of a casino licence. These grounds are where:

- . the casino licensee is convicted of an offence against the proposed Ordinance;
- . the casino licensee is convicted of an offence that is related to an offence against the proposed Ordinance;
- . the casino licensee is convicted of an indictable offence whether on indictment or summarily;
- . the casino licensee contravenes a provision of the proposed Ordinance, or a requirement by the Treasurer in relation to foreign investments;
- . the casino licensee refuses or fails to comply with a direction by the Authority under section 129 relating to the operation of the casino;
- . the casino licensee knowingly or recklessly provides false or misleading information to the Minister or an authorised person;
- . the casino licensee fails to meet the licensee's financial commitments when they become due and payable;
- . proceedings to wind up the casino licensee are instituted;
- . the Minister is satisfied that the casino licensee is not, or is no longer, a suitable person to be the licensee having regard to the applicable suitability requirements;

- . the Minister is satisfied that a person associated in business with the casino licensee, is not, or is no longer, a suitable person having regard to the character of the person, or the way in which the person conducted business;
- . a change occurs in the ownership of the casino and the proprietor nominates under the control agreement another person as the proposed casino licensee; or
- . the casino lessee, under any arrangement entered into between the lessee and the developer or proprietor, nominates a person other than the current casino licensee as the proposed casino licensee.

Subsection 48(2) also provides the Minister with a discretionary power to suspend for such period as the Minister thinks fit, or cancel, the casino licence in the public interest.

Section 49 details the procedures to be followed with respect to any suspension or cancellation of the casino licence.

Subsection 49(1) provides a mandatory power for the Minister to request (by written notice) an interested person to show cause as to why the casino licence should not be suspended or cancelled where:

- (i) a ground for suspension or cancellation under subsection 48(1) has arisen; or
- (ii) the Minister proposes to suspend or cancel the licence for public interest reasons.

The notice specifies the period, being at least 21 days after issue of the notice, within which an interested person shall show cause. Subsection 49(1) also provides the Minister with a similar, but discretionary power, to require other persons who the Minister believes has an interest in the licence to also show cause.

Subsection 49(2) requires the notice to specify the ground for its issue.

Subsection 49(3) sets out the actions the Minister may take having regard to any response made by the interested person. If the matter is resolved to the Minister's satisfaction, then the Minister shall take no further action. If the matter is not resolved to the Minister's satisfaction but the Minister considers that suspension or cancellation of the licence is not warranted, then the Minister has a discretionary power to issue a caution to the casino licensee. Where the matter is not resolved to the Minister's satisfaction and the Minister considers that further action is warranted the Minister has the discretion to either give a direction or to suspend or cancel the licence.

Subsection 49(4) provides that where the Minister's direction is not complied with within the time specified in the notice, the Minister may then exercise his or her power to suspend or cancel the licence.

Subsection 49(5) provides that the Minister may, by notice in writing, reduce or terminate the remainder of the period of suspension with respect to a suspended licence.

Subsection 49(6) requires the Minister to notify the casino licensee in writing of the suspension or cancellation of the casino licence and of the grounds for such suspension or cancellation.

Subsection 49(7) defines the term 'interested person' for the purposes of the section as meaning the casino licensee, the owner of the casino and the casino licensee.

Section 50 deals with the assignment of a casino licence.

Subsection 50(1) will allow the casino licensee to assign the casino licence subject to the approval in writing of the Minister and of the owner of the casino.

Subsection 50(2) requires the Minister to be satisfied that the assignee satisfies the suitability requirements applicable to a proposed casino licensee under the development or control agreement before approving the assignment.

Subsection 50(3) requires the Minister to have regard to the Authority's recommendations concerning the assignee's suitability before approving the assignment..

Subsection 50(4) requires that an application for the assignment of a casino licence be:

- made by the casino licensee;  
in writing in a form approved by the Minister;
- signed by the casino licensee; and
- contain such particulars (as are required by the form of the application); and
- be supported by such further particulars (as the Minister in writing requires to be supplied within a reasonable period set down in the notice) relating to the proposed assignment.

Section 51 provides for the appointment of an administrator in circumstances where the casino licence is suspended or cancelled.

Subsection 51(1) provides the Minister with a power to appoint, by instrument, an administrator of the casino in a situation where the casino licence has been suspended or cancelled and where the Minister is satisfied that it is in the public interest to do so.

Subsection 51(2) requires the Minister to have regard to any recommendations of the Authority concerning the suitability of a person before appointing that person as an administrator.

Subsection 51(3) provides the Minister with a discretion to appoint the administrator on such terms and conditions as the Minister thinks fit.

Subsection 51(4) provides that the administrator's appointment may be terminated at any time by the Minister and shall be determined by an assignment of the casino licence under section 50.

Subsection 51(5) provides that the administrator's functions are to assume full control and responsibility of the casino licensee's business in relation to the casino and to conduct the casino operations in accordance with the Ordinance.

Part VI comprises sections 52 to 57 and deals with the operational arrangements of the Casino.

Section 52 deals with the lease of the casino.

Subsection 52(1) provides that the developer or proprietor, subject to the approval in writing of the Minister, may lease the casino to a person.

Subsection 52(2) requires the Minister to be satisfied that the proposed lessee satisfies the relevant suitability requirements before approving of the casino lease.

Subsection 52(3) requires the Minister to have regard to any recommendations made by the Authority concerning the suitability of the proposed lessee before approving the lease.

Subsection 52(4) provides that an application shall be made by the developer, or proprietor, as the case may be, and be in a form approved by the Minister and be accompanied by:

- (a) a draft of the proposed lease;
- (b) particulars of the financial standing, relevant managerial experience and business reputation of the proposed lessee; and
- (c) such other particulars as are required by the form.

Subsection 52(5) enables the Minister to require the applicant to supply such further particulars or documents, or to answer such questions, relating to the proposed lease as are specified in a written notice to the applicant.

Subsection 52(6) provides that where the Minister makes a decision refusing to approve a lease of the casino, the Minister is required to give to the applicant and to the proposed lessee a notice in writing specifying the decision and, unless the decision is a security related decision, of the grounds for the decision.

Section 53 deals with the casino operation agreement.

Subsection 53(1) provides that the developer, proprietor or casino lessee may, with the approval in writing of the Minister, enter into an agreement with the casino licensee for the licensee to operate the casino.

Subsection 53(2) provides that the developer, proprietor, or casino lessee, as the case requires, and the casino licensee shall make an application for approval. Such approval must be in a form approved by the Minister and shall be accompanied by a draft of the proposed agreement and such other particulars as are required.

Subsection 53(3) provides that the Minister may, by notice in writing, require the applicants to supply such further particulars or documents, or to answer such questions, relating to the proposed agreement as are specified in the notice.

Subsection 53(4) provides that where the Minister refuses to approve a proposed casino operation agreement, the Minister shall, by notice in writing, inform the applicants of the refusal and of the grounds for the refusal.

Section 54 deals with variations of the lease or agreement.

Subsection 54(1) provides that the parties to a casino lease or a casino operation agreement may, with the approval in writing of the Minister, vary the lease or agreement.

Subsection 54(2) requires the Minister, in considering whether to approve a variation, to have regard to the likely effect of such a variation on the control and operation of the casino.

Subsection 54(3) provides the Minister with the power to require, by notice in writing, a party to a proposed variation to supply such particulars or documents, or to answer such questions, relating to the proposed variation as are specified in the notice.

Subsection 54(4) provides that where the Minister makes a decision refusing to approve a variation of a casino lease or a casino operation agreement, the Minister is required to give to the parties to the lease or agreement a notice in writing of the decision, and unless the decision is a security related decision, of the reasons for the decision.

Section 55 deals with the scrutiny of supply contracts. Supply contracts relate to the supply of goods or services to the casino.

Subsection 55(1) prohibits a person, except with the approval of the Authority, from entering into a supply contract involving the payment or receipt of an amount exceeding the determined amount. The determined amount is such an amount as the Minister, by notice published in the Gazette, determines for the purposes of this section.

Subsection 55(2) provides that where the Authority considers that it is not in the public interest for a supply contract to remain in force, the Authority shall give to each person who is a party to the contract, a notice in writing requesting the person within 14 days after the receipt of the notice, to show cause why the contract should not be terminated.

Subsection 55(3) provides that the notice shall specify the reasons why it is considered that it is not in the public interest for the contract to remain in force. The notice may also require that any submissions to be made by the person in response to the notice be made orally or in writing.

Subsection 55(4) provides that the Authority must inquire into the suitability of the parties to a proposed supply contract and the operation of the contract before giving or refusing to give approval under subsection (1).

Subsection 55(5) provides a similar requirement to subsection (4) with respect to notices given by the Authority under subsection (2).

Section 56 deals with the termination of supply contracts.

Section 56 deals with responses to the notice issued under subsection 55(2) to show cause why a supply contract should not be terminated.

Subsection 56(1) provides that where the Authority receives a submission from a party to a supply contract who had received a notice under subsection 55(2) and the Authority considers that the explanation given is satisfactory the Authority shall take no further action.

Subsection 56(2) provides that where the Authority does not receive a submission in respect of a notice issued under subsection 55(2), or the submissions received are not satisfactory to show why the contract should not be terminated, the Authority shall terminate the contract as from a date specified in a written notice given to all parties to the contract.

Section 57 deals with the effect of termination of a supply contract. It provides that where a supply contract is terminated under section 56:



- (a) the termination does not affect a right acquired or a liability incurred before that termination by a person who was a party to the contract;
- (b) no liability for breach of the contract is incurred by a person who is a party to the contract by reason only of that termination; and
- (c) neither the Commonwealth nor the Authority incurs any liability by reason of that termination.

Part VII comprises 5 Divisions and deals with the operation of the casino.

Division 1 comprises sections 58 to 60 and deals with the facilities and equipment of the casino.

Section 58 deals with the maintenance of facilities and provides that the casino licensee is required to:

- (a) maintain the facilities and amenities of the casino in such condition as to satisfy patrons;
- (b) ensure that the casino is at all times properly and competently conducted;
- (c) ensure that all casino installations, equipment and procedures for security are available and are tested, used, operated and applied effectively; and
- (d) ensure that the gaming equipment and chips approved by the Authority for use in the casino are maintained in good order and condition.

Section 59 deals with the approval of the layout of the casino.

Subsection 59(1) provides that the casino licensee shall not operate the casino unless the layout of the casino is in accordance with the plans and diagrams as approved by the Authority. A penalty of \$10,000 if the offender is a body corporate and \$2,000 for a natural person applies with respect to a breach of this provision.

Subsection 59(2) requires the casino licensee to submit, for the approval of the Authority, the plans and diagrams of the layout of the casino and where it is proposed to vary the layout of the casino, the plans and diagrams of the proposed variation.

Subsection 59(3) enables the Authority to require, by notice in writing, the casino licensee to supply such further particulars or documents, or to answer such questions, relating to the plans and diagrams submitted to the Authority as are specified in the notice.

Subsection 59(4) provides that the Authority shall not approve plans and diagrams unless the layout of the casino as shown on the plans and diagrams complies with the requirements of the regulations.

Section 60 provides that the Authority may approve gaming equipment and chips for use in the casino.

Division 2 comprises sections 61 to 64 and deals with the operating times of the casino.

Section 61 provides that the Holidays Ordinance 1958 does not limit the days on which the casino may be operated. The effect of this is that the casino may operate on public holidays.

Section 62 prohibits the casino licensee from operating the casino at times other than those either approved by the Minister under section 63 or determined by the Minister under section 64. A penalty applies to this provision of \$10,000 for a body corporate, or \$2,000 for a natural person.

Section 63 deals with the approval of the operating times of the casino.

Subsection 63(1) requires the casino licensee to submit a schedule of the days and hours during which it is proposed to operate the casino. The casino licensee is also required to submit a similar schedule with respect to any proposed variations of the casino operating times. These schedules shall be submitted for the approval of the Minister.

Subsection 63(2) provides the Minister with the power to approve a schedule of operating times or to approve it with such variations, or subject to such conditions, as the Minister thinks fit.

Subsection 63(3) requires the Minister to have regard to any recommendations made by the Authority in relation to operating times before giving an approval.

Section 64 deals with the determination of operating times by the Minister.

Subsection 64(1) provides the Minister with the power to determine at any time the operating times for the casino.

Subsection 64(2) provides that where the Minister makes a determination of the operating times for the casino, he or she shall forward to the casino licensee, in writing a schedule of the operating times, and a notice specifying the date on which the schedule takes effect.

Division 3 comprises sections 65 to 70 and deals with the exclusion of persons from the casino.

Section 65 deals with general matters and provides that:

- (1) a person does not have a right as against the casino licensee to enter, or be in, the casino;
- (2) the regulations may prescribe, in relation to members of the public, conditions for entering, and being in, the casino;
- (3) Division 3 does not affect the operation of any other law of the Territory; and
- (4) Division 3 does not authorise the exclusion of an authorised person from the casino.

Section 66 details the grounds on which a person may be excluded from the casino.

Subsection 66(1) provides that a person shall not enter the casino during the hours the casino is operating if that person:

- (a) is requested by a casino employee not to enter on the ground that the person has previously contravened the approved rules of an authorised game or the rules of conduct in force in the casino; or
- (b) is a person who has been excluded from the casino by reason of a direction issued by the Commissioner of Police under subsection 69(1).

A penalty of a fine of \$2,000 applies.

Subsection 66(2) provides that a person shall not enter the casino during the hours the casino is operating if that person is under the age of 18 years or is not permitted to enter the casino by reason of a condition in a regulation in force under the Ordinance. A penalty of a fine of \$1,000 applies.

Subsection 66(3) provides that a person shall not remain in the casino during the hours the casino is operating if the person:

- (a) fails to produce evidence of his or her age when requested to do so by a casino employee;
- (b) has been requested by a casino employee to leave the casino on the grounds that the person:
  - (i) appears not to fully understand the nature or consequences of playing authorised games and the potential for financial loss; or
  - (ii) appears to be under the influence of alcohol or drugs to the extent that the person could not be expected to exercise rational judgment while playing an authorised game or is affecting the orderly functioning of the casino;
  - (iii) appears to be cheating or attempting to cheat; or

- (iv) has previously contravened the approved rules of an authorised game or rules of conduct in force in the casino.
- (c) is not permitted to remain in the casino by reason of a condition in a regulation in force under the proposed Ordinance; or
- (d) is a person who has been excluded from the casino by reason of a direction issued by the Commission of Police under subsection 69(1).

Subsection 66(4) provides that a person shall not produce false evidence of his or her age when requested to do so by a casino employee under paragraph 66(3)(a). A penalty of a fine of \$1,000 applies.

Subsection 66(5) provides that a person shall not be prevented from entering or being in the casino if that person is under 18 years of age and is employed or permitted to work at the casino or is with his or her spouse or a parent, being a spouse or parent who is not less than 18 years of age, and intends to dine at a restaurant in the casino or attend an entertainment at the casino that does not involve playing or observing the playing of an authorised game.

Section 67 deals with persons excluded from entering or staying in the casino.

Subsection 67(1) enables a person who is a police officer, a person in charge of the casino, or an agent or employee of the casino licensee to prevent a person who has been excluded from entering the casino, from entering the casino or to remove promptly from the casino a person who has been excluded from remaining in the casino. Such assistance as is necessary and reasonable and such force as is necessary and reasonable may be used.

Subsection 67(2) prohibits a person, without reasonable excuse, from obstructing or hindering a person in the exercise of a power conferred under the last subsection. A penalty applies of \$1,000 or imprisonment for 6 months, or both.

Section 68 deals with the obligation of the casino licensee in relation to permitting a person to enter or remain in the casino.

Subsection 68(1) provides that the casino licensee shall not knowingly or recklessly:

- (a) permit a person to enter the casino if that person is not entitled to enter by reason of paragraph 66(1)(a) relating to the contravention of the approved rules of an authorised game or rules of conduct or paragraph 66(2)(a) relating to failure to produce evidence of age; or

(b) fail to remove from the casino:

- (i) a person to whom a request to leave the casino may be made by a casino employee under subparagraphs 66(3)(b)(i), (ii), (iii) or (iv) relating to a lack of appreciation of the consequences of gaming, being under the influence of alcohol or a drug or cheating; or
- (ii) a person who is not entitled to remain in the casino by reason of a condition imposed by a regulation in force under the Ordinance.

A penalty of a fine of \$10,000 for a body corporate or \$2,000 for a natural person may be imposed.

Subsection 68(2) provides that a casino licensee shall not refuse entry to a person who is under the age of 18 if that person is employed or permitted to work at the casino or is in the company of his or her spouse or parent, being a spouse or parent who is not less than 18 years of age, to dine at a restaurant in the casino or attend an entertainment at the casino that does not involve playing or observing the playing of an authorised game.

Section 69 deals with the exclusion of persons from the casino by the Commissioner of Police or a police officer authorised by the Commissioner.

Subsection 69(1) enables the Commissioner of Police, or a police officer authorised by the Commissioner for the purpose, to issue a notice in writing directing the casino licensee to exclude from the casino a person specified in the notice.

Subsection 69(2) provides that the authorised police officer must believe, on reasonable grounds, that the person is, or has been, engaged in or associated with persons engaged in, swindling, cheating or any malpractice in gaming before giving notice for that person to be excluded from the casino.

Subsection 69(3) provides that the casino licensee must not, without reasonable excuse, contravene a direction. A penalty of \$25,000 for a body corporate and \$5,000 for a natural person applies to a contravention of this provision.

Subsection 69(4) provides that where a notice of exclusion is given to the casino licensee, the authorised police officer:

- (a) shall make available to the casino licensee a recent photograph of the person to be excluded from the casino; or
- (b) if it is not practicable to comply with paragraph (a), shall provide the casino licensee with such description of the person to be excluded from the casino as is sufficient to enable the casino licensee to readily identify the person.

Section 70 deals with the revocation of a direction to exclude a person from the casino.

Subsection 70(1) provides that the Commissioner of Police, or a police officer authorised by the Commissioner for the purpose, may upon an application being made by a person who has been excluded from the casino by a direction under subsection 69(1) revoke the direction if the authorised police officer is satisfied that the applicant is a fit and proper person to be permitted to enter the casino and play an authorised game.

Subsection 70(2) provides that the authorised police office shall notify the casino licensee and the applicant of the revocation.

Subsection 70(3) provides that the revocation shall be in writing.

Division 4 comprises sections 71 to 78 and deals with gaming and related activities at the casino.

Section 71 deals with authorised games.

Subsection 71(1) provides the Minister with the power to declare a game to be an authorised game for the purposes of the proposed Ordinance by notice published in the Gazette.

Subsection 71(2) requires the Minister to have regard to any recommendations made by the Authority in relation to games before making such a declaration.

Subsection 71(3) provides that where the Minister declares a game to be an authorised game the Minister shall notify the casino licensee in writing as soon as practicable of the declaration and may, at any time, by notice in writing to the licensee, advise of any restriction or condition relating to the playing of the game.

Section 72 deals with rules for authorised games.

Subsection 72(1) requires the Minister to approve the rules of a game where the Minister has declared that game to be authorised. The approval shall be made by notice published in the Gazette.

Subsection 72(2) provides that such approval causes those rules to be the approved rules of the game for the purposes of the Ordinance but subject to subsection 72(3).

Subsection 72(3) gives the Minister the power to alter the rules of a game by notice published in the Gazette and the approved rules shall be taken to have been altered accordingly.

Subsection 72(4) requires the Minister to have regard to any recommendations made by the Authority before approving or altering the rules of a game.

Subsection 72(5) provides that a reference to an alteration of the approved rules of a game includes a reference to an omission from, or an addition to, these rules.

Subsection 72(6) requires the Minister as soon as practicable to notify, in writing, the casino licensee of the rules approved or of any alteration to the approved rules.

Subsection 72(7) requires the casino licensee to ensure that printed copies of the approved rules of all authorised games are freely available to patrons of the casino.

Section 73 deals with gaming equipment and chips for the casino.

Subsection 73(1) provides that no person other than a person authorised by the Authority may have in his or her possession, except while in the casino, any gaming equipment or chips approved by the Authority for use in the casino.

Subsection 73(2) prohibits a person from exhibiting or possessing gaming equipment or chips when in the casino other than gaming equipment and chips approved by the Authority.

A penalty of \$10,000 for a body corporate or \$2,000 or imprisonment for 12 months, or both for a natural person, applies to a contravention of the section.

Section 74 deals with the conduct of gaming, and provides that the casino licensee:

- (a) shall cause all playing cards dealt in the course of gaming in the casino to be dealt from a card shoe;
- (b) shall not issue, or cause or permit to be issued, any chips for gaming in the casino unless the chips are paid for -
  - (i) in money to the face value of the chips; or
  - (ii) by chip purchase voucher issued in accordance with the regulations;
- (c) shall not conduct an authorised game, or permit an authorised game to be conducted, in the casino otherwise than in accordance with -
  - (i) the approved rules for that game; and

- (ii) any restriction or condition specified in a notice under subsection 71(3) in relation to that game;
- (d) shall not, in relation to the playing of an authorised game, permit wagers to be placed in the casino otherwise than by means of chips unless the approved rules of the game require, or provide for, the placing of wagers in money;
- (e) shall cause all wagers won in the course of playing an authorised game in the casino to be paid for in full without deduction of any commission or levy other than a commission or levy provided for in the approved rules of that game;
- (f) shall, during the times the casino is open for gaming, at the request of a patron of the casino, cause -
  - (i) chip purchase vouchers to be exchanged for chips;
  - (ii) chips to be exchanged for other chips; or
  - (iii) chips or chip purchase vouchers to be redeemed for money of a value equivalent to the face value of the chips or chip purchase voucher; and
- (g) shall not require any deposit, charge, commission or levy (whether directly or indirectly and whether or not it is claimed to be refundable) to be paid by a person for the person to enter the casino or, except as may be provided by the approved rules of a game, to take part in gaming in the casino.

A penalty of \$25,000 for a body corporate and \$5,000 for a natural person applies to breaches of this provision.

Section 75 deals with the prohibition on gaming by certain persons.

Subsection 75(1) prohibits an authorised person from playing a game in the casino except to the extent that it may be necessary to do so:

- (a) in the performance of his or her functions under the proposed Ordinance;
- (b) in the course of his or her employment;
- (c) in the performance under the proposed Ordinance of a function on behalf of the Commonwealth or Authority.

A penalty of \$2,000 or imprisonment for 12 months, or both, applies to a breach of this provision.

Subsection 75(2) prohibits a casino employee from soliciting or accepting any gratuity or other benefit from a patron of the casino. A penalty of \$2,000 or imprisonment for 12 months, or both applies.



Subsection 75(3) prohibits a casino licensee from knowingly permitting a person under the age of 18 years to play any game in the casino. A penalty of \$25,000 for a body corporate or \$5,000, or 2 years imprisonment, or both, for a natural person applies to a breach of this provision.

Subsection 75(4) prohibits a person under the age of 18 years from playing any game in the casino. A penalty of \$1,000 applies.

Subsection 75(5) provides a defence to an offence under subsection 75(3). The casino licensee shall be guilty of an offence if the licensee adduces evidence such that he or she had reasonable grounds for believing that the person playing a game in the casino was not less than 18 years of age, and that evidence is not rebutted by the prosecution.

Section 76 provides that a person may not install, use or permit the installation of a gaming machine in the casino. A penalty of \$5,000 for a body corporate and \$1,000, or 6 months imprisonment, or both, for a natural person applies.

Section 77 deals with cheating in the casino.

Subsection 77(1) will prohibit persons from dishonestly obtaining, or inducing a person to deliver, give or credit to him or her or another person, any money, chips, benefit, advantage, valuable consideration or security by:

- . a trick, device, sleight of hand or representation;
- . a scheme or practice;
- . the use of gaming equipment or an instrument or article of a type (or appearing to be of such type) used in connection with gaming or any other thing.

A penalty of \$10,000 or 5 years imprisonment, or both, applies.

Subsection 77(2) prohibits a person from using or possessing in the casino:

- . chips that the person knows are bogus or counterfeit;
- . cards, dice or coins that the person knows have been marked, loaded or tampered with; or
- . any equipment for the purpose of facilitating cheating or stealing.

A penalty of \$5,000 or 2 years imprisonment, or both, applies.

Subsection 77(3) provides that the prohibition on the possession of things under paragraphs (2)(a) or (b) does not extend to a person in charge of the casino, and agent or employee of the casino licensee, an inspector or a police officer where the things have been seized for destruction or for use as evidence in any proceedings for an offence.

Section 78 deals with forgery and will prohibit a person from:

- forging or counterfeiting chips, a chip purchase voucher, a licence or a form of identification used under the Ordinance; or
- knowingly uttering counterfeit chips, a forged or counterfeit chip purchase voucher, licence, or form of identification.

A penalty of \$10,000 or 5 years imprisonment, or both applies.

Division 5 comprises sections 79 to 83 and deals with provision of money for gaming.

Section 79 imposes a restriction on the availability of credit to persons gaming in the casino. The section provides that the casino licensee or a casino employee shall not, in relation to gaming in the casino:

- (a) extend credit in any form to any person;
- (b) accept a credit wager from any person;
- (c) provide cash or chips to any person upon a blank cheque;
- (d) make a loan to any person;
- (e) provide cash or chips to any person in respect of a credit card or debit card transaction; or
- (f) wholly or partly release or discharge a debt without the approval of the Minister.

A penalty of \$25,000 for a body corporate and \$5,000, or 2 years imprisonment, or both, for a natural person applies.

Section 80 deals with cheques tendered at the casino.

Subsection 80(1) prohibits the casino licensee from accepting a cheque, other than a cheque of a kind, and otherwise than in accordance with the procedures, specified in the regulations. A penalty of \$5,000 for a body corporate and \$1,000 for a natural person applies.

Subsection 80(2) requires the casino licensee, in relation to a cheque accepted by the licensee that has not been redeemed under section 82, to present the cheque for payment within such period as is specified by the Minister by notice published in the Gazette. A penalty of \$5,000 for a body corporate and \$1,000 for a natural person applies.

Subsection 80(3) prohibits the casino licensee from accepting or cashing a cheque at the request of any person

if any cheque previously received by the casino licensee from that person has been dishonoured and the debt so incurred has not been discharged. A penalty of \$10,000 for a body corporate and \$2,000, or 12 months imprisonment, or both, for a natural person applies.

Subsection 80(4) provides that nothing in section 80 will be taken to require the casino licensee to cash a cheque at the request of any person.

Section 81 deals with deposit accounts.

Subsection 81(1) provides that the casino licensee has the power to establish a deposit account for a natural person.

Subsection 81(2) provides that the casino licensee may issue to a person who establishes a deposit account:

- (a) chips;
- (b) chip purchase vouchers;
- (c) money; or
- (d) a cheque;

not exceeding the total value of the amount standing to the credit of the account at the time of the issue of the chips, vouchers, money or cheque.

Subsection 81(3) provides that the casino licensee must credit certain amounts to the deposit account of a person. These are:

- (a) the amount of any money or cheque deposited with the casino licensee for that purpose by the person; and
- (b) the amount of any money transferred by the person to that account directly from an account operated by the person with a financial institution.

Subsection 81(4) provides that the casino licensee shall debit the deposit account of a person with:

- (a) an amount equal to the face value of chips or vouchers, the amount of money or the value of a cheque issued to the person under subsection (2); and
- (b) the amount of any money transferred by the person from the account directly to an account operated by the person with a financial institution.

Subsection 81(5) provides that the casino licensee must not credit an amount to the deposit account, or debit the deposit account of a person with an amount, otherwise than in accordance with this section.

Section 82 deals with the redemption of cheques and allows a person, with the agreement of the casino licensee, to redeem any cheque accepted from the person by the casino licensee at any time prior to presentation of the cheque for payment, by presenting at the cash desk of the casino:

- (a) an amount of money equivalent to;
- (b) chips to the face value of which is equivalent to; or
- (c) where more than one cheque is being redeemed, a consolidating cheque for one amount equivalent to;

the amount of the cheque, or the sum of the amount of the cheques, to be redeemed.

Section 83 deals with legal proceedings in relation to gaming.

Subsection 83(1) provides that, notwithstanding any other law of the Territory, the casino licensee may seek to recover, by instituting an action, the amount of a cheque drawn in respect of a gaming debt incurred in the casino which is subsequently dishonoured.

Subsection 83(2) prohibits the casino licensee from assigning to a third party the whole or any right arising out of a gaming debt incurred in the casino by a person where that debt was incurred by reason of the dishonour of a cheque drawn by that person and accepted by the casino licensee. A penalty of \$5,000 for a body corporate and \$1,000, or 6 months imprisonment, or both, for a natural person applies.

Subsection 83(3) provides that an action lies against the casino licensee to recover;

- (a) money won at gaming in the casino; or
- (b) the amount of a cheque giving by the casino licensee in payment of money so won and subsequently dishonoured.

Part VIII comprises 4 Divisions and deals with casino employee's licences.

Division 1 comprises sections 84 to 87 and deals with the employment of licence holders.

Section 84 deals with key employees.

Subsection 84(1) creates an offence by preventing the casino licensee from knowingly or recklessly employing or allowing a person to work as a key employee when that person does not hold a key employee's licence. On conviction, a fine applies of \$2,000 for a body corporate and \$500 for a natural person for each day on which the offence is committed.

Subsection 84(2) provides that a person who does not hold a key employee's licence is guilty of an offence (punishable, on conviction, by a fine not exceeding \$500) for each day during which that person is employed on works as a key employee.

Subsection 84(3) prohibits the casino licensee from knowingly or recklessly allowing a person who holds a key employee's licence to be employed or to work while contravening a condition of the licence. A penalty of \$2,000 for a body corporate and \$500 for a natural person applies.

Subsection 84(4) prohibits a key employee from being employed or working in relation to the casino while contravening a condition of his or her key employee's licence. A penalty of \$500 applies.

Subsection 84(5) provides that in section 84 the term key employee's licence includes a provisional key employee's licence.

Section 85 deals with operations employees in the same way that section 84 deals with key employees. The same offences are created, however, the penalties are less than the amounts applicable to offences with respect to key employees.

Subsection 85(1) prevents the casino licensee from knowingly or recklessly employing or permitting to work in relation to the casino as an operations employee a person who does not hold an operation employee's licence. On conviction, a fine applies of \$1,000 for a body corporate and \$200 for a natural person for each day on which the offence is committed.

Subsection 85(2) provides that a person who does not hold an operations employee's licence is, in respect of each day during which that person is employed on works in relation to the casino as an operations employee, guilty of an offence punishable, on conviction, by a fine not exceeding \$200.

Subsection 85(3) prohibits the casino licensee from knowingly or recklessly permitting a person who holds an operations employee's licence to be employed or to work in relation to the casino while contravening a condition of that licence. A penalty of \$1,000 for a body corporate and \$200 for a natural person applies.

Subsection 85(4) prohibits an operations employee's licensee from being employed or working in relation to the casino while contravening a condition of the licence. A penalty of \$200 applies.

Subsection 85(5) provides that the term operations employee's licence will include a provisional operations employee's licence.

Section 86 deals with information relating to casino employees.

Subsection 86(1) requires the casino licensee to notify the Authority in a form approved by the Minister:

- (a) within 7 days when a person commences or ceases employment in relation to the casino; and
- (b) within a period not exceeding 7 days as is specified by the Authority by written notice, of the names (in separate categories) of all persons who, during the preceding 6 months, were key employees, operations employees, persons employed or permitted to work in relation to the casino, or persons employed by the casino in any other capacity.

Subsection 86(2) provides that the Authority must not request the names of employees under paragraph (1)(b) more than twice in any 12 month period.

Subsection 86(3) gives the Authority a discretion to require, by a written notice, given to a person who holds a casino employee's licence:

- (a) to provide such information in relation to the holding of that licence as is specified in the notice;
- (b) to produce records relevant to the licence;
- (c) to permit the examination of, taking of extracts from, and the making of copies of the records; or
- (d) to authorise a person (as specified in the notice) to so provide information, produce documents and permit the examination and reproduction of the records.

Subsection 86(4) provides that a notice under the subsection (3) does not cease to have effect by reason only that the licence ceases to have effect.

Section 87 deals with the effect of the suspension or cancellation of a casino employee's licence.

Subsection 87(1) requires the casino license to cease to permit a person from performing functions in relation to the casino within 24 hours of receiving notice that that person's casino employee's licence has been suspended or cancelled.

Subsection 87(2) provides that this provision shall take effect notwithstanding any law of the Territory or any award or industrial or other agreement.

Subsection 87(3) provides that neither the Commonwealth nor the Authority incurs any liability by reason of the operation of this provision.

Division 2 comprises sections 88 to 93 and deals with applications for licences.

Section 88 deals with eligibility for the grant of a casino employee's licence. It sets out the categories of persons not eligible for either a key employee's licence or an operations employee's licence.

Subsection 88(1) provides a person is not eligible for a key employee's licence if the person:

- (a) is not a fit and proper person to hold such a licence;
- (b) is under the age of 18 years;
- (c) is not an Australian citizen or a permanent resident of Australia; or
- (d) is within a class of persons prescribed as ineligible.

Subsection 88(2) provides that a person is not eligible for an operations employee's licence if the person:

- (a) is not a fit and proper person to hold such a licence;
- (b) is under the age of 18 years;
- (c) is not an Australian citizen or a permanent resident of Australia; or
- (d) is within a class of persons prescribed as ineligible.

Section 89 deals with application for a casino employee's licence.

Subsection 89(1) sets out requirements in relation to an application for a casino employee's licence. The application must:

- . set out the functions that the person proposes to perform;
- . be lodged with the chief casino inspector; and
- . be accompanied by the applicant's finger and palm prints and a recent photograph.

An application for a key employee's licence must be in a form approved by the Minister and be accompanied by the determined fee, and any documents as are prescribed or as are specified in the form. An application for an operations employee's licence shall also be in a form approved by the Minister, be accompanied by the determined fee and by such documentation as may be prescribed or as are specified in the form.

Subsection 89(2) provides that the application form with respect to a casino employee's licence may also require the applicant to verify the truth of any information set out in the application by statutory declaration.

Subsection 89(3) provides that determined fees for the purposes of an application are payable to the Authority.

Section 90 provides that where a casino employee's licence is surrendered or cancelled, or where an application for a casino employee's licence is refused the finger and palm prints and photograph that accompanied the application are to be destroyed. Any copies of the prints and photograph must also be destroyed.

Section 91 provides that where there is any change in the particulars of an application for a casino employee's licence, the applicant or the licensee, as the cases may be, is required to notify the Authority as soon as practicable of the changes. Section 91 also gives the Minister a discretion to require the person to verify by statutory declaration the particulars of the change.

Section 92 gives the Authority a discretionary power to seek further information with respect to applications for casino employee licences. It may, by written notice, require the casino licensee, the applicant, or any person whose association with the applicant is, in the opinion of the Authority, relevant to the application to:

- (a) provide information (verified by statutory declaration if the Authority so requires) relating to the application;
- (b) produce records;
- (c) permit the examination of the taking of extracts from, and making of copies of records; and
- (d) authorise a person specified in the notice to comply with the requirement identified in the notice.

Section 93 deals with approval by the Authority of an application for a casino employee's licence.

Subsection 93(1) requires the Authority to consider each application for a casino employee's licence and either approve the application, refuse the application, or, after varying the functions to be performed by the applicant, approve the varied application. The applicant's written consent is required to vary the application.

Subsection 93(2) gives the Authority a discretion to determine conditions to apply to an approved licence.

Subsection 93(3) gives the Authority a discretion to refuse an application if the application does not comply with the requirements of sections 89 or 92.

Subsection 93(4) requires the Authority to refuse to approve an application to a licence if the applicant fails to establish that he or she is an eligible applicant.



Subsection 93(5) gives the Authority power to inquire into such matters relating to the application as it thinks fit in considering an application for a casino employee's licence.

Division 3 comprises sections 94 to 96 and deals with the issue of licences.

Section 94 deals with the issue of casino employee's licences.

Subsection 94(1) provides that where the Authority approves an application for a key employee's licence, the chief casino inspector shall issue the licence to the applicant in a form approved by the Minister.

Subsection 94(2) similarly provides that where the Authority approves an application for an operations employee's licence, the chief casino inspector shall issue the licence to the applicant in a form approved by the Minister.

Subsection 94(3) requires a casino employee's licence to set out:

- (i) the functions that the licensee may perform in relation to the casino; and
- (ii) any conditions determined by the Minister under subsection 93(2).

Section 95 deals with conditions applicable to casino employee's licences.

Subsection 95(1) sets out the various conditions to which a licence may be subject. These conditions are:

- . that the licence holder or the person authorised by the holder shall comply with a requirement made pursuant to subsection 86(3) relating to the provision of further information and records;
- . those set out in the licence pursuant to subsection 94(3);
- . those imposed by the Authority and notified to the licence holder in writing; and
- . any prescribed conditions.

Subsection 95(2) provides that any of the conditions outlined in paragraphs 95(1)(b) or (c) may be a condition that is applicable to only one licence holder.

Subsection 95(3) gives the Authority power to vary or revoke licence conditions whether or not the license or the casino licensee applies to the Authority for such variation or revocation.

Section 96 deals with provisional casino employee's licences.

Subsection 96(1) provides with respect to key employee's licences; and subsection 96(2) provides with respect to operations employee's licences, that pending the issue of a licence the Authority has a discretion to approve the issue of a provisional licence to the applicant. If such approval is given, the chief casino officer must issue the provisional licence, in a form approved by the Minister, to the applicant.

Subsection 96(3) gives the Authority a discretionary power to impose conditions on the provisional licence.

Subsection 96(4) requires the provisional licence set out any functions the licensee may perform in relation to the casino and any conditions determined under subsection (3).

Subsection 96(5) provides that a provisional licence is subject to any conditions set out in the licence and any prescribed conditions.

Subsection 96(6) provides that the conditions referred to in paragraph (5)(a) may be applicable to only one holder of a licence.

Subsection 96(7) gives the Authority a power to cancel a provisional licence at any time by written notice to the holder of the licence.

Subsection 96(8) provides that a provisional licence will cease to have effect:

- upon expiration of such period as is specified in the notice referred to in subsection (7) or, if the notice so specifies, upon receipt by the holder of a licence of the notice;
- upon issue of a casino employee's licence to the provisional licensee;
- upon surrender of the licence to the Authority;
- 3 months after the issue of the licence; or
- upon the death of the licensee;

whichever event first occurs.

Division 4 comprises sections 97 to 100 and deals generally with casino employee's licences.

Section 97 deals with the duration of a casino employee's licence.

Subsection 97(1) provides that a casino employee's licence, other than a provisional casino employee's licence, ceases to have effect:

- (a) upon the cancellation of the licence;

- (b) upon surrender of the licence to the Authority;
- (c) upon the expiration of 12 months after the issue, or renewal, as the case may be, of the licence; or
- (d) upon the death of the licensee;

whichever event occurs first.

Subsection 97(2) requires the Authority to renew a casino employee's licence, other than a provisional casino employee's licence, for a period of 12 months where an application has been made and on payment of the determined fee.

Subsection 97(3) provides that an application for the renewal of a licence shall:

- (a) be made by the licensee, other than a provisional licensee;
- (b) be in a form approved by the Minister; and
- (c) be made not earlier than a month before and not later than the day of expiry of the licence.

Subsection 97(4) provides that the determined fee is payable to the Authority.

Subsection 97(5) provides that the provisions of the proposed Ordinance apply to an application for renewal of a licence as if that application were an application for a casino employee's licence, except such of those provisions as relate to:

- (a) the form of that application;
- (b) the determined fee; and
- (c) the issue of a provisional casino employee's licence.

Section 98 deals with variations to a casino employee's licence.

Subsection 98(1) provides that a holder of a casino employee's licence may apply to the Authority, in a form of approved by the Minister, for a variation of the functions that that licensee may perform in relation to the casino.

Subsection 98(2) provides that an application for such variation shall be accompanied by the determined fee.

Subsection 98(3) provides that the provisions of the proposed Ordinance apply in respect of an application for a variation as if that application were an application for a casino employee's licence, except such of those provisions as relate to:

- (a) a form of that application;
- (b) the determined fee; and
- (c) the issue of a provisional casino employee licence.

Subsection 98(4) provides that where the Authority proposes to approve an application for a variation, the chief casino inspector:

- (a) shall by writing notify the licensee and the casino licensee of the variation that the Authority proposes to make;
- (b) shall request the licensee to forward the licence to the chief casino inspector for alteration;
- (c) on receipt of the licence, shall alter it in accordance with that proposal; and
- (d) after altering the licence shall return it to the licensee.

Section 99 deals with the loss of a casino employee's licence. Where the chief casino inspector is satisfied that a casino employee's licence has been lost, destroyed or damaged, the chief casino inspector shall, on payment to the Authority of the determined fee, issue to the licensee a copy of the licence and that copy has, for the purposes of the Ordinance, the same force and effect as the licence.

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Section 100 deals with the suspension or cancellation of a casino employee's licence.

Subsection 100(1) details the grounds for suspension or cancellation of a casino employee's licence. These are where:

- (a) the licence was issued at a time when there were grounds for refusing its issue that were then unknown to the Authority;
- (b) the licensee is convicted of an offence against this Ordinance, an offence which is related to an offence against this Ordinance, or an offence against any other law relating to gaming or betting or casinos;
- (c) the licensee is convicted, in or outside the Territory, of any other offence punishable on conviction by imprisonment for a period of not less than 6 months;
- (d) the licensee contravenes a provision of the Ordinance;
- (e) the licensee contravenes a condition of the licence;
- (f) the licensee provides false or misleading information in relation to the licence;

- (g) the licensee refuses or fails to provide information that he or she is required under the Ordinance to provide;
- (h) the licensee becomes bankrupt or insolvent; or
- (i) the licensee is not, for any other reason, a suitable person to hold the licence.

Subsection 100(2) provides that where the Authority is satisfied that a ground for suspension or cancellation of a casino employee's licence has arisen, the Authority may, by notice in writing served on the licensee:

- (a) censure the licensee for any action referred to in the notice;
- (b) vary the functions that the licensee may perform in relation to the casino;
- (c) impose further conditions on the licence;
- (d) suspend the licence for such period as the Authority thinks fit; or
- (e) cancel the licence.

Subsection 100(3) provides that the Authority may, at any time, by notice in writing given to the licensee, terminate, or reduce the period of, the suspension of the licence.

Subsection 100(4) provides that a casino employee's licence ceases to be in force during a period of suspension, or upon cancellation of the licence.

Subsection 100(5) provides that subsection (4) does not affect any penal or other liability incurred by the licensee, or the exercise of the functions of the Minister, the Authority or any authorised person in relation to the licensee or the licence.

Part IX comprises 2 Divisions and deals with enforcement.

Division 1 comprises sections 101 to 110 and deals with powers of search, entry and seizure.

Section 101 defines the term 'offence' for the purposes of Division 1 of Part IX.

Section 102 deals with powers of inspectors.

Subsection 102(1) will provide that an inspector may:

- (a) enter any premises;

- (b) search the premises for, and seize anything that the inspector believes on reasonable grounds to be connected with an offence;
- (c) if the entry, search or seizure, as the case requires, is made pursuant to a warrant issued under subsection 105(2), with the consent of the occupier of the premises or pursuant to an order of a court.

Subsection 102(2) provides that an inspector may:

- (a) search a person for anything connected with an offence; and
- (b) seize anything found in the course of the search that the inspector believes on reasonable grounds to be connected with an offence;

if the search or seizure is made pursuant to a warrant issued under subsection 105(4), with the consent of the person or pursuant to an order of a Court.

Section 103 deals with the seizure of things not specified in a warrant. If an inspector finds something in the course of searching under a warrant issued under section 105 that the inspector believes on reasonable grounds to be connected with an offence, the inspector may seize that thing if he or she has reasonable grounds for believing that it is necessary to effect the seizure in order to prevent the thing being:

- (a) concealed, lost or destroyed;
- (b) sold or otherwise disposed of; or
- (c) used in connection with an offence or gaming in the casino.

Section 104 deals with consents to searches.

Subsection 104(1) provides that before seeking the consent of a person for the purposes of a search, an inspector shall inform the person that he or she may refuse to give that consent.

Subsection 104(2) provides that if the inspector obtains the person's consent for the search, the inspector shall ask the person to sign a written acknowledgement that that consent has been given for the specified purposes and the action which may be taken as a consequence of that consent. The form must also acknowledge that the person has been informed that he or she may refuse to give consent, and the day on which, and the time at which, that consent was given.

Subsection 104(3) provides that where it is material, in any proceedings, for a Court to be satisfied that a person gave consent for the entry or search and an acknowledgement is not produced in evidence it shall be presumed that the person did not consent unless the contrary is established.

Section 105 deals with search warrants. The section sets out the grounds on which an inspector may apply for a search warrant.

Subsection 105(1) provides that where an inspector has reasonable grounds for suspecting that at that time or within the next 72 hours there may be, in or on any premises, a thing of a particular kind connected with a particular offence, the inspector may:

- (a) lay before a Magistrate an information on oath setting out those grounds; and
- (b) apply for the issue of a warrant to search the premises for things of that kind.

Subsection 105(2) provides that where an application is made under subsection (1) for a search warrant, the Magistrate may, subject to subsection (5) issue a warrant authorising the inspector named in the warrant and with such assistance and by such force as is necessary and reasonable:

- (a) to enter the premises;
- (b) to search the premises for things of the kind specified in the warrant; and
- (c) to seize anything found in the course of the search that the inspector believes, on reasonable grounds, to be a thing of that kind connected with the relevant offence.

Subsection 105(3) provides that where an inspector has reasonable grounds for suspecting that there may be a thing of a particular kind connected with a particular offence:

- (a) on a person;
- (b) in the clothing that is worn by a person; or
- (c) otherwise in a person's immediate control;

the inspector may:

- (a) lay before a Magistrate an information on oath setting out those grounds; and
- (b) apply for the issue of a search warrant.

Subsection 105(4) provides that where an application is made under subsection (3) for a warrant to search a person, the Magistrate may, subject to subsection (5), issue a warrant authorising an inspector named in the warrant and with such assistance and by such force as is necessary and reasonable:

- (a) to search the person for things of the kind specified; and

- (b) to seize anything found in the course of the search that the inspector believes, on reasonable grounds, to be a thing of that kind connected with the relevant offence.

Subsection 105(5) provides that a Magistrate shall not issue a warrant unless:

- (a) the informant or another person has given the Magistrate, either orally or by affidavit, any further information that the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

Subsection 105(6) provides that a warrant shall:

- (a) state the purpose for which it is issued;
- (b) specify the nature of the relevant offence;
- (c) specify particular hours during which entry is authorised, or state that the entry is authorised at any time of the day or night;
- (d) include a description of the kinds of things in relation to which the powers under the warrant may be exercised; and
- (e) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.

Section 106 deals with police entry to the casino.

Subsection 106(1) provides that a police officer who is of or above the rank of sergeant, or who is authorised for the purpose by a police officer of, or above, the rank of sergeant, or who is requested to do so by an inspector, may at any time enter, and be in, any part of the casino.

Subsection 106(2) provides that this provision shall not be taken to affect the power of a police officer under any other law of the Territory to enter, and be in, the casino.

Section 107 deals with special powers of inspectors and police.

Subsection 107(1) provides that where an inspector enters the casino under subsection 13(1), the inspector may search the casino for and seize anything that the inspector suspects on reasonable grounds to be connected with an offence.

Subsection 107(2) provides that where an inspector enters the casino under subsection 13(1) and the inspector suspects



on reasonable grounds that a particular thing is connected with a particular offence, the inspector may search a person for the thing and if the thing is found in the course of the search, seize it.

Subsection 107(3) provides that where a police officer suspects, on reasonable grounds, that a particular thing is connected with a particular offence, the police officer may search a person, or enter premises and search for the thing and, if the thing is found in the course of the search, seize it.

Subsection 107(4) provides that an inspector or a police officer shall not exercise a power under this provision unless:

- (a) the inspector or police officer believes, on reasonable grounds, that it is necessary to exercise the power in order to prevent the concealment, loss or destruction of the thing; and
- (b) the circumstances are so serious and urgent that they require the immediate exercise of the power without the authority of an order of a Court or of a warrant issued under the Ordinance or another law in force in the Territory.

Subsection 107(5) provides that if, in the course of searching, an inspector or police officer finds:

- (a) a thing that the inspector or police officer believes, on reasonable grounds to be a thing connected with another offence; or
- (b) anything that the inspector or police officer believes, on reasonable grounds, will afford evidence as to the commission of an offence;

and the inspector or police officer believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence, the inspector or police officer may seize the thing.

Section 108 provides restrictions with respect to the search of persons.

Subsection 108(1) provides that where an inspector or police officer has the power to search a person, the inspector or police officer may also search the clothing that is being worn by the person, and any property in, or apparently in, the person's immediate control.

Subsection 108(2) provides that in conducting a search of a person, an inspector or police officer shall not use more force, or subject a person to greater indignity, than is reasonable and necessary in order to conduct the search.

Subsection 108(3) requires that a person be searched by a person of the same sex.

Subsection 108(4) provides that no person is authorised to carry out a search by way of an examination of a body cavity of a person.

Section 109 deals with the disposal of gaming equipment and other things after seizure.

Subsection 109(1) provides that where a thing, other than something illegal, is seized under sections 102, 103 or 107, then:

- (a) if a person is not charged, within 60 days after the seizure, with an offence against the Ordinance in relation to that thing, or, having being charged with such an offence, is not convicted of the offence - the Minister shall arrange for the thing to be returned to the person from whom it was seized, or to the person occupying, or in charge of, the relevant premises, as the case may be; or
- (b) if a person is convicted of an offence in relation to the thing, not being an indictable offence, the Court may order that the thing be returned to the person from whom it was seized or to the person occupying, or in charge of, the relevant premises, as the case requires; or that it shall be forfeited to the Commonwealth.

Subsection 109(2) provides that where an illegal thing is seized under sections 102, 103 or 107 it shall be forfeited to the Commonwealth.

Subsection 109(3) defines an illegal thing to mean:

- (a) a bogus or counterfeit chip;
- (b) a card that has been marked or otherwise tampered with;
- (c) dice that has been marked, loaded or otherwise tampered with; or
- (d) any other device or thing that permits or facilitates cheating.

Section 110 deals with the detention of a suspected person.

Subsection 110(1) will provide that where:

- (a) the person in charge of the casino;

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

suspects on reasonable grounds that a person in the casino is contravening, or attempting to contravene, a provision of the Ordinance, the person in charge, agent or employee or inspector may detain the suspected person in a suitable place in the casino until the arrival of a police officer.

Subsection 110(2) requires that in detaining a person:

- (a) no more force is used than is reasonable and necessary in the circumstances;
- (b) the person detained is informed of the reasons for the detention; and
- (c) the person effecting the detention immediately notifies a police officer of the detention and the reasons for the detention.

Division 2 comprises sections 111 to 118 and deals with offences.

Section 111 provides that it is an offence for a person to wilfully obstruct, hinder, threaten or intimidate an inspector in the exercise of the inspector's powers or the performance of the inspector's functions under the Ordinance. A penalty of \$1,000 or 6 months imprisonment, or both, applies.

Section 112 provides that it is an offence, without reasonable excuse, to refuse or fail to comply with a requirement made of the person or a direction given to the person by an inspector in the exercise of the inspector's powers or the performance of the inspector's functions under the Ordinance. A penalty of \$1,000 or 6 months imprisonment, or both, applies.

Section 113 provides, in relation to any matter arising under the Ordinance, that it is an offence to knowingly or recklessly:

- (a) furnish information that is false or misleading in a material particular; or
- (b) make a material omission from information furnished in purported compliance with a requirement under the Ordinance.

A penalty of \$10,000 for a body corporate and \$2,000 or imprisonment for 12 months, or both, in the case of a natural person applies.

Section 114 provides that it is an offence for a person to:

- (a) personate a licensee or a form of identification used for the purposes of the proposed Ordinance; or

- (b) falsely represent himself or herself to be an inspector or other authorised person.

A penalty of \$2,000 or 12 months imprisonment, or both, applies.

Section 115 provides that it is an offence for a person, without reasonable excuse, to fail to furnish information or a document that the person is required under the Ordinance to furnish. A penalty of \$10,000 for a body corporate and \$2,000 or 12 months imprisonment, or both, for a natural person applies.

Section 116 deals with conflicts of interest.

Subsection 116(1) provides that it is an offence for an official to knowingly or recklessly:

- (a) have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with an involved person; or
- (b) be employed, in any capacity by an involved person.

A penalty of \$2,000 or 12 months imprisonment, or both, applies.

Subsection 116(2) provides that it is an offence for a person who ceases to be an official to knowingly or recklessly solicit or accept employment from, or have any business or financial association with, an involved person within the period of 1 year after ceasing to be an official.

A penalty of \$2,000 or 12 months imprisonment, or both, applies.

Subsections 116(3) and (4) provides similar offences to subsection 116(1) and (2) with respect to involved persons forming associations with, or employing official. A penalty of \$25,000 for a body corporate and \$5,000 or 2 years imprisonment, or both, for a natural person applies.

Subsection 116(5) requires an official who knowingly has, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with a person who is an applicant for a casino employee's licence shall, as soon as practicable, notify the Authority in writing of the association or interest. A penalty of \$1,000 or 6 months imprisonment, or both, applies to a breach of this requirement.

Subsection 116(6) provides that for the purposes of the section, an official person means an authorised person, other than a casino employee.

Section 117 deals with bribery.

Subsection 117(1) provides that it is an offence for an authorised person to seek for himself or herself or another person any money, property or benefit of any kind with respect to the performance of his or her duties and functions under the Ordinance. Nor must an authorised person use, or take advantage of his or her position in order to improperly gain a benefit or an advantage for, or facilitate the commission of an offence by, another person. A penalty of \$5,000 or 2 years imprisonment, or both, applies.

Subsection 117(2) provides that it is an offence for a person to give, confer upon, or procure for an authorised person, or for any other person, any money, property or benefit of any kind:

- (a) to influence the authorised person to forego or neglect, or in the performance of, his or her functions under the Ordinance;
- (b) on account of anything done or omitted to be done, or to be afterwards done or omitted to be done, by the authorised person in relation to those functions; or
- (c) to influence the authorised person to use, or take advantage of, his or position as an authorised person in order improperly to gain a benefit or advantage for, or to facilitate the commission of an offence by, any person.

A penalty of \$25,000 for a body corporate and \$5,000 or 2 years imprisonment, or both, for a natural person applies.

Section 118 deals with the conduct of directors, servants and agents.

Subsection 118(1) deals with the state of mind of a body corporate. The subsection provides that where, in proceedings for an offence against the Ordinance, it is necessary to establish the state of mind of the body corporate in relation to a particular conduct, it is sufficient to show:

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

Subsection 118(2) provides that any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority shall be taken, for the purposes of a

prosecution for an offence against the Ordinance, to have been engaged in also by the body corporate unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

Subsection 118(3) similarly provides that conduct engaged in by a servant or agent of a person shall be deemed to be the conduct of that person if the servant or agent acted within the scope of his or her actual or apparent authority and that the servant or agent had the state of mind.

Subsection 118(4) similarly provides that conduct engaged in on behalf of a person by a servant or agent of a person within the scope of his or her actual or apparent authority shall be taken, for the purposes of the prosecution for an offence against the Ordinance, to have been engaged in by the first mentioned person unless that person establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

Subsection 118(5) provides that where a person, other than a body corporate, is convicted of an offence and that the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted, then that person is not liable to be punished by imprisonment for that offence.

Subsection 118(6) provides that a reference to the state of mind of the person includes a reference to:

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

Subsection 118(7) provides that a reference to engaging in conduct includes a reference to failing or refusing to engage in conduct.

Part X comprises sections 119 to 124 and deals with financial matters.

Section 119 requires the casino licensee to open and maintain separate bank accounts at a bank or banks in the Territory to use for all banking transactions in relation to the operation of the casino or the casino operation agreement. The accounts must be approved by the Minister. A penalty of \$10,000 for a body corporate and \$2,000, or 2 years imprisonment, or both, for a natural person applies.

Section 120 deals with access to banking records.

Subsection 120(1) gives the Minister a power to require, by written notice, a bank to give an inspector access to a

statement or other particulars in relation to a casino account. The notice must specify the day and the hours during which the inspection is required and detail the particulars to which access is required.

Subsection 120(2) gives the Minister a power to require a bank, by written notice, to give a statement of a specified casino account to an inspector within 30 days of the notice.

Subsection 120(3) provides that the bank is liable to a penalty of \$10,000 for a body corporate and \$2,000 or 12 months imprisonment, or both, for a natural person if it, without reasonable excuse, refuses or fails to comply with a requirement under the section.

Subsection 120(4) provides that the hours specified for inspection must be within the bank's normal business hours.

Subsection 120(5) gives an inspector power to copy, or take extracts from, a statement that has been inspected by virtue of subsection (1).

Section 121 requires the casino licensee to:

- (a) keep proper accounts and records (in accordance with general commercial accounting practices) in respect of all transactions and affairs in relation to his or her operation of the casino; and
- (b) ensure that, in relation to the operation of the casino, payments are correctly made and properly authorised and that adequate control is maintained over the assets of or in the custody of the casino licensee and the incurring of liabilities.

Section 122 provides for statements of the casino's accounts. The casino licensee is required to lodge, as soon as possible but not later than 90 days after the end of each financial year, with the Minister trading accounts and profit and loss accounts for the financial year and a balance sheet as at the end of the financial year. The accounts must be in a form approved by the Minister and must give a true and fair view of the financial operations of the casino licensee in respect of the casino. A penalty of \$5,000 for a body corporate and \$1,000 or 6 months imprisonment, or both, for a natural person applies.

Section 123 deals with audit.

Subsection 123(1) requires the casino licensee to cause the books, accounts and financial statements of the casino to be audited as soon as practicable after the end of the financial year. The auditor must be approved by the Minister.

Subsection 123(2) requires the casino licensee to lodge the auditor's report with the Minister as soon as practicable after the end of the financial year.

A penalty of \$5,000 for a body corporate and \$1,000, or 6 months imprisonment, or both, for a natural person applies.

Section 124 requires the casino licensee to retain in the casino all records relating to casino transactions for not less than 7 years. A penalty of \$10,000 for a body corporate and \$2,000 for a natural person applies.

Part XI comprises sections 125 to 127 and provides for the review of decisions under the Ordinance.

Section 125 will detail the primary decisions for the purpose of the Ordinance. These are:

- (a) a decision of the Minister under subsection 15(6) remitting any part or the whole, of the daily penalty payable under section 15;
- (b) a decision of the Authority under section 55 giving or refusing to give an approval relating to the entering into of a supply contract;
- (c) a decision of the Authority under section 56 terminating a supply contract;
- (d) a decision of the Authority under section 59 approving or refusing to approve plans and diagrams;
- (e) a decision of the Authority under section 60 approving or refusing to approve gaming equipment or chips;
- (f) a decision of the Minister under section 63 approving or refusing to approve a schedule of operating times;
- (g) a determination by the Minister under section 64 of the operating times for the casino;
- (h) a direction given by an authorised police officer under subsection 69(1) to the casino licensee to exclude a person from the casino;
- (i) a decision of an authorised police officer under subsection 70(1) refusing to revoke a direction of a kind referred to in paragraph (g);
- (j) a decision of the Minister under section 71 specifying a restriction or condition in regard to the playing of an authorised game;
- (k) a decision of the Minister under section 72 -
  - (i) approving or refusing to approve rules under which an authorised game is to be played; or
  - (ii) altering the rules under which an authorised game is to played.



- (l) a decision of the Authority under section 93 approving or refusing to approve an application for a casino employee's licence or refusing to approve an application for a casino employee's licence of the type for which application was made;
- (m) a decision of the Authority under subsection 95(3) varying or revoking a condition to which a casino employee's licence is subject;
- (n) a decision of the Authority under section 98 varying or refusing to vary the functions that the holder of a casino employee's licence may perform in relation to the casino;
- (o) a decision of the chief casino inspector under section 99 refusing to issue a copy of a casino employee's licence;
- (p) a decision of the Authority under section 100 suspending or cancelling a casino employee's licence; or
- (q) a direction given by the Authority under section 129 to the casino licensee in relation to a matter connected with the operation of the casino.

A reviewable decision shall be defined as a primary decision that does not have a certificate under section 128 signed in relation to it.

Section 126 provides that an application may be made to the Administrative Appeals Tribunal for a review of a reviewable decision.

Section 127 deals with notification of decisions.

Subsection 127(1) requires the decision maker being the Minister, the Authority or authorised police officer, as the case may be, on making a primary decision under the Ordinance, to give written notice of the decision to:

- (a) the person affected by the decision; and
- (b) if the decision is a decision referred to in paragraph (h) or (o) of the definition of primary decision - the casino licensee.

Subsection 127(2) requires that a notice given in respect of a reviewable decision include a statement that;

- (a) application may be made to the Administrative Appeals Tribunal for a review; and
- (b) except where subsection 28(4) of the Administrative Appeals Tribunal Act 1975 applies, application may be made for a statement of reasons for the decision.

Subsection 127(3) provides that the validity of a decision shall not be affected by a failure to comply with subsection 127(2).

Part XII deals with miscellaneous matters.

Section 128 deals with security related matters.

Subsection 128(1) provides that where the Minister or the Authority makes a primary decision and the decision relate to the security of the casino or to an authorised game, the Minister or the Authority may sign a certificate to that effect.

Subsection 128(2) provides that where the Minister makes decisions refusing:

- (a) to grant a casino licence under section 45;
- (b) to approve a lease of the casino under section 52; or
- (c) a variation to a casino lease or casino operation agreement under section 54;

and that decision relates to the security of the casino or to an authorised game, the Minister shall sign a certificate to that effect.

Subsection 128(3) requires the Authority to forward any certificate signed under this section to the Minister as soon as practicable.

Section 129 deals with directions by the Authority with respect to the management of the casino.

Subsection 129(1) enables the Authority to give, by written notice, directions to the casino licensee with respect to the operation of the casino.

Subsection 129(2) provides that the casino licensee must comply with a direction under subsection (1).

Section 130 provides that where the Minister is required to have regard to the Authority's recommendations in coming to a decision, the Minister may accept, reject or refer back to the Authority for reconsideration, the recommendation.

Section 131 deals with evidence.

Subsection 131(1) provides that a certificate signed by the Minister on the following matters is prima facie evidence of the matters so stated:

- (a) that a specified person was, or was not, the holder of a licence at a specific time or period;
- (b) than on a specified day, specified names were kept on the list of names under section 6; or
- (c) that a direction, notice, order, requirement, decision or licence was given, made, granted or issued under the proposed Ordinance.

Subsection 131(2) provides that in proceedings for an offence against the Ordinance, evidence that a person accepted service of a document is evidence of the authority of the person to accept service of the document.

Subsection 131(3) provides that a document that purports to have been signed by an authorised person shall be taken to have been so signed unless the contrary is proved.

Section 132 provides that the Minister, by notice published in the Gazette determine fees for the purposes of the Ordinance.

Section 133 deals with regulations.

Subsection 133(1) gives the Minister power to make regulations prescribing matters required or permitted by the Ordinance or necessary or convenient to be prescribed for carrying out or giving effect to the Ordinance.

Subsection 133(2) provides, that in addition to the general regulation making power, the Minister may make regulations to:

- (a) make provision in relation to the control of the casino or of the operations of the casino;
- (b) make provision in relation to the quality, type or identification of gaming equipment to be used in the casino;
- (c) make provision in relation to the maintenance or use of gaming equipment in the casino;
- (d) make provision in relation to the control of chip stock;
- (e) prescribe standards or procedures for the testing, repair or overhaul of gaming equipment;
- (f) make provision in relation to the handling of chips by casino employees or the use of chips by patrons of the casino;
- (g) make provision in relation to the transportation of gaming equipment or chips to or from the casino;

- (h) make provision in relation to the security arrangements to be applied in relation to the casino;
- (i) prescribe, for the purposes of security and orderly gaming, requirements for the layout of the casino relating to -
  - (i) the siting of gaming tables, gaming equipment, counting rooms, cages and other facilities provided for operations in the casino;
  - (ii) the manner of installation of any closed circuit television system, the position and field of coverage of cameras associated with the system and the height of the cameras above the gaming operations in the casino;
  - (iii) the position and type of any catwalk surveillance system for use in connection with the direct visual monitoring of operations of the casino;
  - (iv) the communications facilities provided for persons maintaining operations in the casino, whether by means of a closed circuit television system, a catwalk surveillance system or by some other means; and
  - (v) the office and related facilities to be provided for inspectors;
- (j) prescribe procedures for the payment of winning wagers;
- (k) prescribe procedures for the supervision and control of the counting of money;
- (l) specify the amount, or prescribe procedures for specifying the amount, of any bet to be made in connection with the playing of an authorised game;
- (m) prescribe procedures for the reconciliation of disputes arising out of the conduct of gaming in the casino;
- (n) prescribe accounts or other records to be kept by the casino licensee;
- (o) prescribe requirements to be observed by the casino licensee in relation to the publication of information concerning the casino and its activities;
- (p) make provision in relation to notices to be displayed in the casino by the casino licensee;
- (q) make provision in relation to the control of junkets;
- (r) make provision in relation to the manner of identification of a casino employee who is performing duties in relation to gaming;
- (s) prescribe criteria for the grant of a casino licence or a casino employee's licence, including matters relating to the

control of any corporation affected by this Ordinance or to substantial shareholders of, foreign participation in, or persons who are associates, of such a corporation;

- (t) prescribe conditions to be applicable to a casino licence or a casino employee's licence;
- (u) require that any matter affected by the regulations be subject to the approval, or satisfaction, of a specified body, or a person holding or occupying a particular office, so as to authorise such a body or person to exercise a discretionary authority; or
- (v) prescribe, for offences against the regulations, penalties not exceeding -
  - (i) if the offender is a body corporate - a fine of \$2,500; or
  - (ii) if the offender is a natural person - a fine of \$500.

Subsection 133(3) provides that in making regulations in relation to a matter of a kind referred to in paragraph (2)(a), the Minister shall have regard to any recommendations made by the Authority.