Western Australia

Gaming and Wagering Commission Act 1987

As at 06 Feb 2025 Official Version
[PCO 06-q0-00] Published on www.legislation.wa.gov.au

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Defined terms

Western Australia

Gaming and Wagering Commission Act 1987

An Act to constitute the Gaming and Wagering Commission of Western Australia, to consolidate and amend the law relating to gaming and wagering, and for related purposes.

[Long title amended: No. 35 of 2003 s. 121.]

Part I — Preliminary

1. Short title

This Act may be cited as the *Gaming and Wagering Commission Act 1987*.

[Section 1 amended: No. 35 of 2003 s. 122.]

2. Commencement

The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

3. Terms used

(1) In this Act, unless the contrary intention appears —

approved means approved by the Commission;

approved premises means premises approved under section 55;

authorised officer means —

(a) a member of the Commission; or

(b) the Chief Casino Officer, a government inspector or any other person appointed for the purposes of section 9(1) of the *Casino Control Act 1984*; or

(c) a person appointed under section 21(1); or

(d) a person to whom a duty or power is delegated under section 21(2), but only to the extent of the performance of the duty or the exercise of the power;

books includes any register or other record of information and accounts or accounting records, however compiled, recorded or stored, and also any document;

casino means a building or room in which games are conducted and played, or in which money counting, surveillance, storage and other activities related to the conduct and playing of games are carried on, pursuant to a casino gaming licence granted under section 21 of the *Casino Control Act 1984*;

casino complex agreement means agreement entered into by the Minister with a public company under section 19(1) of the *Casino Control Act 1984*;

CEO means the chief executive officer of the Department;

certificate means a certificate issued under Part V Division 5;

Commission means the Gaming and Wagering Commission of Western Australia established under section 4;

condition includes a term, requirement, limitation or restriction;

conduct includes promote, organise, manage or operate;

continuing lotteries levy means the levy imposed by the *Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2000*;

credit card includes any card or other article intended for use by a person in obtaining cash, goods or services on credit;

debit card means a card or other article intended for use by a person in obtaining access to an account held by the person for the purpose of withdrawing or depositing cash or obtaining goods or services;

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

event has the meaning given in the *Betting Control Act 1954* section 4(1);

gambling means gaming or wagering;

game of chance does not include any athletic game or sport but, with that exception, includes a pretended game of chance and a game or pretended game which includes a degree of chance, whether or not combined with a skill or degree of skill;

gaming, subject to section 39(2)(d) and (e), means the playing of a game of chance for winnings in money or money's worth, whether any person playing the game is at risk of losing any money or money's worth or not;

gaming equipment includes any machine used in the course of, or in relation to, gaming;

house, in relation to the interpretation of the term ***common gaming house***, includes any premises;

imposed, in relation to a condition, includes implied by or prescribed under this Act;

instruments of gaming includes any cards, dice, board, kip, tables, tokens or other thing used in the course and for the purposes of gaming;

licence means a licence issued under Part V Division 7;

licensed supplier means a person licensed under Part V Division 7 as a licensed supplier;

lottery includes —

(a) any scheme or device for the sale, gift, disposal, or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or the drawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever; and

(aa) any scheme in which such property is, or is proposed to be, given and in which (at any stage) the person eligible to receive the property as a prize, or to participate further in the scheme, is or is to be determined by lot or chance (whether by the throwing or casting of dice, or the drawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever) or by reference to any event or contingency dependent on chance, regardless of whether (at an earlier or a later stage) a test of knowledge or skill is or may be required to be passed by any person in order to qualify the person to receive a prize or to participate further in the scheme; and

(b) a scheme or device for the disposition of property of the kind commonly known as an art union, raffles, guessing competitions, and the like; and

(c) any disposition of property under any other scheme or competition which the public or any specified section of the public may be or is invited to enter, the nature or conduct of which (though skill on the part of the entrants or competitors purports to be required) is such as in the circumstances of the case to preclude the fair consideration of the answers of the entrants or competitors;

machine includes a telecommunications device and any other apparatus or device;

minor fund raising activity means an activity to which section 108 applies;

money includes any bank note, postal note, cheque, credit card, debit card, security or authority for money or the payment of money;

multiple bingo means bingo of the kind referred to in section 96(4);

occupier, used in relation to any premises, includes a person by whom or on whose behalf, and a company or other body of persons, corporate or unincorporate, by or on behalf of which, the premises are actually occupied, or who or which is the lessee or sub-lessee, not being the owner, and an attorney, agent, or manager, who has the control, supervision, or management of the premises on behalf of the person, company or body;

owner, in relation to premises, includes a person who, or company or other body of persons, corporate or unincorporate, which, is, whether at law or in equity, entitled to the premises and also includes the attorney, agent or manager having control, supervision or management of the premises for that person, company, or body or who, on his or its behalf, receives the rent or is authorised to issue receipts for the rent;

permit or ***gaming permit*** means a permit issued under this Act;

permit holder means a person to whom or which a permit is issued;

permitted amusement with prizes means an amusement —

(a) which is provided under, and in all respects in accordance with, a permit; or

(b) to which section 107 or 108 applies;

permitted bingo means bingo conducted under, and which does not contravene, Part V Division 6;

permitted gaming means gaming which is conducted under, and in all respects in accordance with, a permit;

permitted lottery means a lottery conducted under and which does not contravene Part V Division 7;

permitted two-up means two-up gaming conducted under, and which does not contravene, Part V Division 4;

player, in relation to a game of chance, includes any person taking part in the game —

(a) against whom other persons taking part in the game play or conduct gaming; or

(b) who plays or conducts gaming against the house;

playing includes operating —

(a) any electrical, electronic or mechanical gaming equipment or other contrivance that is constructed or adapted for use in the game or pretended game; or

(b) any other instrument of gaming;

possession includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and notwithstanding that another person has the actual possession or custody of the thing in question;

premises means any place, whether or not enclosed or otherwise defined by boundaries, and includes any land, building,

structure, vehicle, railway vehicle, vessel, or aircraft, or any part thereof;

public place includes the doorways or entrances abutting upon, or any ground adjoining and open to, such a place;

race means a race of any kind by horses, whether ridden or driven, or by greyhounds;

race club means a body which conducts race meetings;

race meeting means a meeting at which races are held;

related furnishings means any furniture or furnishings or equipment used in, or ancillary to, the conduct of a common gaming house;

RWWA means Racing and Wagering Western Australia established under the RWWA Act;

RWWA Act means the *Racing and Wagering Western Australia Act 2003*;

simultaneous bingo means bingo played in the circumstances referred to in section 97(1);

social gambling means gambling of a kind which by the operation of Part V Division 2 is to be taken to constitute social gambling;

Sport and Recreation Department means the department of the Public Service assisting the Sport and Recreation Minister in the administration of the *Sports Drug Testing Act 2001*;

Sport and Recreation Minister means the Minister to whom the administration of the *Sports Drug Testing Act 2001* is for the time being committed;

telecommunication device means —

(a) a computer adapted for communicating by way of the Internet or another communications network; or

(b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or another communications network; or

(c) a telephone; or

(d) any other electronic device or thing for communicating at a distance;

token means a gaming chip or other substitute for money which —

(a) is approved for the purpose by the person conducting the gaming in relation to which it is used; and

(b) can be exchanged for money or money's worth or used for playing a game by means of a machine;

trade promotion lottery means a lottery conducted to promote the sale of goods or the use of services, in which every participant takes part —

(a) without cost to him; or

(b) by reason of the purchase of goods or the use of services, the cost of which is —

(i) no more than that cost would be without the opportunity to take part in the lottery; or

(ii) no more than the maximum total cost per entry as is set out in the permit issued under section 104(1);

two-up means two-up gaming —

(a) in the form in which it is customarily conducted; or

(b) in any variation or derivative of the form in which it is customarily conducted, and whether involving the use of coins or dice or other instruments of gaming, and whether the coins or dice or other instruments of gaming are thrown up into the air or down to the ground or otherwise manipulated;

unlawful game means a game to which section 42(2) applies;

vehicle includes every description of vehicle, whether stationary or in motion;

vessel includes every description of craft used in navigation;

wagering includes the staking or hazarding of money or other value —

(a) on some question to be decided; or

(b) in support of an assertion or on the issue of a forecast; or

(c) on the outcome of an uncertain happening, or in the event of a doubtful issue,

and the collection or payment of winnings on a wager;

winnings includes any prizes or other winnings of any kind.

(2) A reference to the power to amend, in relation to a permit, an approval or a certificate, or to a licence under the *Casino Control Act 1984*, includes a reference to the power to —

(a) suspend the operation, for a time specified in the notice of amendment or until the happening of an event so specified, of the permit, approval, certificate or licence or of a condition imposed in respect to the permit, approval, certificate, or licence; or

(b) impose conditions or further conditions.

(3) For the purposes of this Act —

(a) any purpose for which a body of persons is established and conducted that is calculated to benefit the body as a whole shall not be held to be a purpose of private gain by reason only that action in the fulfillment of that purpose would result in benefit to any person as an individual; and

(b) any club, society, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such a club, society, institution, organisation or association, shall be taken to constitute a separate body of persons.

(4) For removal of doubt —

(a) section 5(3) of the *Betting Control Act 1954* applies in respect of things done under that Act; and

(b) except as specified in paragraph (a) and sections 40A and 64, a reference in this Act to wagering or gambling includes a reference to betting under the *Betting Control Act 1954*.

[Section 3 amended: No. 16 of 1990 s. 33; No. 14 of 1996 s. 4; No. 24 of 1998 s. 33; No. 6 of 2000 s. 9; No. 35 of 2003 s. 123, 166 and 167; No. 41 of 2018 s. 17; No. 53 of 2024 s. 43.]

Part II — The Commission

Division 1 — Administration

4. Gaming and Wagering Commission established

(1) There shall be a body, to be known as the Gaming and Wagering Commission of Western Australia, established in accordance with this Act.

(2) The Commission —

(a) is a corporate body which under its corporate name —

(i) has perpetual succession; and

(ii) is capable, subject to this Act, of doing and suffering all that bodies corporate may lawfully do or suffer;

and

(b) may have a common seal, which shall —

(i) be kept in such custody as the Commission directs; and

(ii) be used only as authorised by the Commission;

and

(c) shall be constituted in accordance with section 12.

[Section 4 amended: No. 35 of 2003 s. 124.]

5. Trading name or symbol, use of by Commission

The Commission may use, and operate under, a trading name or symbol approved by the Minister, of which approval notice is published in the *Gazette*, but the use of such a trading name or symbol does not prevent or affect any proceedings being taken by or against the Commission in its corporate name.

6. Minister and Commission, relationship between

(1) Subject to the Minister, it shall be the function of the Commission to carry out the administration of this Act.

(2) The Minister may give to the Commission directions of a general character as to the exercise of its function, and the Commission shall give effect to such a direction, but where such a direction does not accord with recommendations of the Commission the Commission may make its advice to the Minister known to the public.

(3) Where the Minister has referred a question or matter to the Commission for advice, the Minister may act notwithstanding that the advice has not been received.

(3A) Where advice (including recommendations) is received from the Commission, whether or not at the request or direction of the Minister, the Minister is not bound to act on or give effect to it.

(4) The Commission shall, in so far as that is not inconsistent with this Act, carry out such duties as —

(a) may be required of it by the Minister under or in furtherance of the provisions of this Act or any other Act in relation to gambling; and

(b) are not inconsistent with the *Betting Control Act 1954*, the RWWA Act, the *Lotteries Commission Act 1990* or the *Casino Control Act 1984*.

[Section 6 amended: No. 16 of 1990 s. 33; No. 35 of 2003 s. 125 and 166; No. 32 of 2022 s. 10.]

Division 2 — Duties and powers

7. Duties of Commission

(1) It shall be the duty of the Commission —

(a) to administer the law relating to —

(i) gaming; and

(ii) subject to the *Betting Control Act 1954* and the RWWA Act, wagering;

and

(b) to keep under review —

(i) the conduct, extent and character of that gaming and wagering; and

(ii) the provision, use and location of gaming and wagering facilities;

and

(ba) to formulate and implement policies for the scrutiny, control and regulation of gaming and wagering, taking into account the requirements and interests of the community as a whole and the need to minimise harm caused by gambling; and

(c) to grant, or to withhold or revoke, approval in respect of, and where appropriate to inspect, examine or investigate premises, gaming equipment, operations and persons concerned with gambling in relation to which a permit or certificate is sought; and

(d) to administer all matters relating to any casino complex, licensed casino, casino key employee, casino employee or gaming in a casino, pursuant to the *Casino Control Act 1984* and any casino complex agreement; and

(da) to perform the functions of the Commission prescribed by or under the RWWA Act and to administer all matters relating to those functions; and

(e) to cause licences, permits, approvals, authorisations and certificates, as appropriate, to be issued in relation to —

(i) persons;

(ii) premises;

(iii) casinos;

(iv) facilities;

(v) gaming and other equipment;

(vi) gambling operations;

and

[(ea) deleted]

(f) to advise the Minister, either of its own motion or upon the request of the Minister, as to any matter relating to gambling; and

(g) to make recommendations to the Minister in relation to the control or supervision of particular kinds of gambling, or gambling in particular circumstances, and as to the making of regulations relating to gambling and the fees and charges to be prescribed; and

(h) to enforce, and to prosecute persons contravening, the laws relating to gambling; and

(j) to perform such other functions as are prescribed by or under this or any other written law.

(2) In carrying out its duties the Commission shall, in so far as is practicable, ensure that the revenue derived pursuant to this Act, and under any other written law relevant to the duties of the Commission, is sufficient to provide for the operating, administrative and other costs of the Commission.

[Section 7 amended: No. 35 of 2003 s. 126 and 166; No. 77 of 2006 s. 4; No. 37 of 2018 s. 64.]

8. Powers of Commission

(1) Subject to this Act and the *Betting Control Act 1954*, the Commission has all such powers as are necessary to carry out its duties.

(2) Without derogating from the generality of subsection (1), the Commission may —

(a) formulate and implement policies for the administration and control of the conduct of gaming and wagering in the State; and

(b) approve, or withhold approval from, persons, premises, facilities, gaming or other equipment, games and wagering and gaming operations, for the purposes of this Act or any other written law in relation to gambling; and

(c) formulate and impose prohibitions or conditions to be applicable to, or in relation to —

(i) the conduct of gambling; and

(ii) the types of wagering which may or may not be conducted; and

(iii) the games which may or may not be played; and

(iiia) the advertising of live odds during events, whether generally or by specific classes of persons or in a specified manner or place; and

(iv) the rules under which wagering is to be conducted and games are to be played;

and

(d) grant or issue and amend or revoke —

(i) approvals, permits, certificates and authorisations relating to gambling and the use of premises for gambling; and

(ia) approvals of associates of wagering licensees under the *Betting Control Act 1954* section 10X; and

(ib) licences of key employees of wagering licensees under regulations made under the *Betting Control Act 1954* section 8; and

(ii) subject to the *Betting Control Act 1954*, licences under that Act relating to wagering; and

(iii) subject to the *Casino Control Act 1984*, licences relating to casinos and the employment of persons in casinos; and

(iv) subject to the RWWA Act, licences under that Act relating to directors and key employees;

and

(da) take steps to minimise harm to the community, or any part of the community, caused by gambling; and

(e) seek, receive, disseminate or publish information relevant to gambling and the incidence of gambling and its effect in the community; and

(f) make prescribed charges and impose prescribed duties and fees.

(3) For the purpose of administering and enforcing the law relating to gambling, and whenever under any written law the Commission is required or authorised to give or withhold approval or to make recommendations on any matter, or anything shall or may be done with or subject to the approval or recommendation of the Commission, the Commission may require such reports to be furnished, and institute and carry out such investigations and inquiries, as the Commission considers to be necessary or expedient.

[Section 8 amended: No. 35 of 2003 s. 127 and 166; No. 8 of 2009 s. 63; No. 41 of 2018 s. 18; No. 21 of 2019 s. 89.]

Division 3 — Finance

9. Funds of Commission; financial provisions

(1) The funds available to the Commission consist of —

(a) moneys from time to time appropriated by Parliament; and

(b) interest accrued under subsection (6) or moneys otherwise lawfully received by, made available to or payable to the Commission.

(2) An account called the Gaming and Wagering Commission Account is to be established —

(a) as an agency special purpose account under section 16 of the *Financial Management Act 2006*; or

(b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which the moneys received by the Commission are to be credited.

[(2a) deleted]

(3) The Gaming and Wagering Commission Account shall —

(a) be controlled by the Commission; and

(b) be operated in such manner as the Treasurer approves from time to time; and

(c) subject to subsection (4)(a) and (c), be applied only for the purposes of the *Casino Control Act 1984*, the *Betting Control Act 1954* and this Act,

and all expenditure incurred by the Commission shall be drawn from that Account.

(4) There shall be paid from the moneys from time to time credited to or placed to the credit of the Account —

(a) the cost of administering this Act, and any other written law relating to gambling in so far as it is administered by the Commission; and

(b) any other expenditure lawfully incurred for a purpose determined by the Commission and approved by the Minister; and

(c) any surplus moneys required by the Treasurer with the agreement of the Minister to be credited to the Consolidated Account.

(5) The Commission shall pay to the Treasurer such amounts, if any, as are fixed by the Treasurer —

(a) as the interest and sinking fund contributions for each financial year in respect of such proportion of the Consolidated Account as is, or has been, applied for any purpose to which the function of the Commission relates; and

(b) for the use by the Commission of government buildings or other government property, or for services rendered or facilities provided by any officer of the Public Service, the Police Force, or an instrumentality or agency of the Government,

and such amounts shall be taken to be costs incurred in the administration of this Act.

(6) The Commission may, subject to the approval of the Treasurer, temporarily invest moneys standing to the credit of the Account until those moneys are required for the purposes of the Commission.

[Section 9 amended: No. 6 of 1993 s. 11 and 15; No. 49 of 1996 s. 55 and 64; No. 24 of 1998 s. 34(1) and (2); No. 35 of 2003 s. 128 and 166; No. 28 of 2006 s. 402; No. 77 of 2006 s. 4 and Sch. 1 cl. 71(1); No. 37 of 2018 s. 65; No. 53 of 2024 s. 44.]

10. *Financial Management Act 2006* and *Auditor General Act 2006* apply to Commission

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commission and its operations.

[Section 10 amended: No. 77 of 2006 Sch. 1 cl. 71(2).]

11. Some dealings by Commission need Treasurer's approval

(1) Subject to the approval of the Treasurer, the Commission may acquire, hold and dispose of real and personal property, borrow moneys, and give security for financial accommodation.

(2) The Treasurer may delegate his power of approval under subsection (1) to the Under Treasurer of the State or to any other officer of the Treasury, and that approval may then be given by the delegate in general terms as regards particular types of transaction authorised by the instrument of delegation.

Division 4 — Membership, co-option, consultation and committees

12. Members of Commission, attendance at meetings etc.

(1) The membership of the Commission shall comprise —

(a) the chairperson, appointed by the Minister; and

(b) not less than 5, nor more than 7, other members, appointed by the Minister,

and the Minister shall cause notice of the appointments to be published in the *Gazette*.

(2) Members appointed under subsection (1) shall be persons who, in the opinion of the Minister, are persons of integrity, good repute and relevant experience.

(2A) The members of the Commission must select one of their number to be the deputy chairperson.

(2B) If the chairperson is unable to act because of absence or incapacity, or the office of chairperson is vacant, the deputy chairperson must act in the chairperson's place.

(3) A quorum of the Commission shall be constituted by 4 members, unless in relation to any particular matter the Minister directs that all the members are required to be present at the meeting concerned.

(4) Where the Minister appoints —

[(a), (b) deleted]

(c) persons of repute, experience and integrity to be the respective deputies of members holding office under subsection (1)(b), those persons shall be such deputies,

and, on the Minister causing notice of the respective appointments to be published in the *Gazette*, the person appointed under this subsection is entitled to attend any meeting of the Commission at which the member to whom that person is the deputy is not present and, when so attending, has all the powers and duties of that member.

(5) In the absence or incapacity of the chairperson, and of the deputy chairperson, the members of the Commission present at a meeting shall select one of their number to preside, and the person so selected has and may exercise all the powers of the chairperson whilst so presiding.

(5A) Subject to this Act, the chairperson holds office for the period, not exceeding 5 years, specified in their instrument of appointment, and is eligible for reappointment.

(6) Subject to this Act, a member appointed under subsection (1)(b) holds office for such period not exceeding 3 years as is specified in the instrument of appointment, but is eligible for re-appointment.

(7) If at any time a member appointed under subsection (1)(b) ceases to hold office, a person who is at that time the deputy of that member shall until —

(a) the vacancy in the office of that member is filled by the appointment of another member; or

(b) where the vacancy is not filled, the expiration of the period of the appointment of that member or of 3 months from the date of that member so ceasing to hold office, whichever is the lesser time,

be entitled to attend any meeting of the Commission and, when so attending, has all the powers and duties of a member.

(8) Where —

(a) both a member appointed under subsection (1)(b) and the deputy of that member are absent or temporarily incapable of fulfilling the duties of a member; or

(b) the office of a member is vacant and is not filled in accordance with this Act, and no deputy is acting for that member pursuant to subsection (7),

the Minister may appoint a person to act in the place of that member during that absence or incapacity, or until the vacancy is filled, as the case requires, and any person so appointed has, while that appointment subsists, all the functions, powers and duties of a member.

(9) Unless the context otherwise requires, any reference in this Act to a member shall be construed as including a reference to —

(a) a deputy acting in the office of that member;

(b) a person appointed by the Minister pursuant to subsection (8) to act in the place of that member while the appointment subsists.

(10) An act or omission of a person acting in place of another under this section cannot be questioned on the ground that the occasion for acting had not arisen or had ceased.

(11) If a member of the Commission —

[(a) deleted]

(b) is a person who is an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(c) is absent, without the permission of the Commission, from 3 consecutive meetings of the Commission of which he has been given notice; or

(d) is removed from office by the Minister for disability, inefficiency or misconduct,

the office of that person becomes vacant and the person shall not thereafter be eligible for re-appointment.

(12) An appointed member may resign office by a written notice given under the hand of that person and addressed to, and received by, the Minister, but a member whose term of office expires or who resigns from office is eligible for re-appointment.

(13) A person who is or has been a member is not personally liable for any act done or omitted to be done in good faith by the Commission or by that person in acting as a member.

(14) Until a person is appointed to the office of chairperson under subsection (1), as amended by the *Casino Legislation Amendment (Burswood Casino) Act 2022* section 11, the chief executive officer of the Department is, ex officio, the chairperson of the Commission.

[Section 12 amended: No. 16 of 1990 s. 33; No. 24 of 1998 s. 35; No. 10 of 2001 s. 85; No. 35 of 2003 s. 129 and 168; No. 25 of 2014 s. 62; No. 32 of 2022 s. 11.]

13. Remuneration of members; effect of service with Commission on public servants

(1) A member of the Commission, a person appointed a member of a committee of the Commission, or a person co-opted to the Commission may be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines.

(2) If a person who would be eligible to receive remuneration or allowances under this Act is or becomes a member of, or a candidate for election to, the Parliament of the State or of another State or of a Territory or of the Commonwealth, the person shall not be paid remuneration or allowances under this

section but shall, subject to the approval of the Minister, be reimbursed such expenses as the person reasonably incurs by reason of attendance at meetings or of undertaking, with the approval of the Commission, business on behalf of the Commission.

(3) Acceptance of or acting in the office of member of the Commission by any person does not of itself render the provisions of Part 3 of the *Public Sector Management Act 1994*, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person, or affect or prejudice the application to that person of those provisions if they applied to the person at the time of the acceptance of or acting in that office.

(4) Where the services of any person are for the time being utilized by the Commission under the provisions of this Act, that utilization does not prejudice the existing or accruing rights of that person under the *Public Sector Management Act 1994* or under any other Act, and service rendered on behalf of the Commission pursuant to this Act shall be regarded as not constituting a break in the service in which the person would otherwise have been employed.

[Section 13 amended: No. 32 of 1994 s. 19; No. 24 of 1998 s. 36; No. 39 of 2010 s. 89.]

14. Co-option, consultation etc., Commission's powers as to

(1) Subject to the Minister, the Commission may for the purpose of any meeting or matter co-opt any person having specialized knowledge or experience relevant to the purposes of this Act, but a person so co-opted is not entitled to a vote.

(2) The Commission has power to invite or engage any body or person to act in an advisory capacity to the Commission in relation to any or all aspects of the functions of the Commission.

(3) The Commission may, on matters relevant to the purposes of this Act, consult and collaborate with any government department, authority, instrumentality or agency in the State or elsewhere or with any other body which has interests relevant to those of the Commission.

15. Committees, appointment of etc.

(1) The Commission may, from time to time, appoint a committee or committees to investigate and advise the Commission on any aspect of its functions under this or any other written law or, subject to section 16, to carry out such of the duties or exercise such of the powers of the Commission under this or any other written law as the Commission may determine.

(2) The carrying out of any duty or the exercise of any power by a committee of the Commission does not relieve the Commission of the responsibility for the decisions of that committee.

(3) A committee may consist of such persons as the Commission determines, whether members of the Commission or persons who are not such members, but so that in every case not less than one member of the Commission shall be a member of the committee.

(4) Each committee appointed by the Commission shall report to the Commission on its activities at such times as the Commission directs.

[Section 15 amended: No. 35 of 2003 s. 130.]

16. Delegation powers

(1) Where the Commission considers that any power of the Commission under this or any other written law should be exercised on its behalf by a person or body other than the Commission, the Commission may, by resolution, delegate all or any of its powers or duties, except this power of delegation, to —

(a) a member or a committee of the Commission; or

(b) the Chief Casino Officer, or a government inspector; or

(c) in accordance with section 59(1)(d) of the *Interpretation Act 1984*, as may be specified in the instrument of delegation,

either generally or as otherwise provided by the instrument of delegation.

(2) A power delegated by the Commission shall be exercised by the delegate in accordance with the instrument of delegation, and when so exercised shall be deemed to have been exercised by the Commission and shall be presumed, unless the contrary is established, to have been exercised by a person duly authorised by a delegation under this section.

(3) A document purporting to be signed by a person as a delegate of the Commission shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the exercise of a power duly delegated to the person by the Commission.

(4) In this section —

government inspector and ***Chief Casino Officer*** have the meanings given in the *Casino Control Act 1984*.

[Section 16 amended: No. 24 of 1998 s. 37; No. 35 of 2003 s. 131.]

Division 5 — Proceedings

17. Proceedings, meetings, declaring interests etc.

(1) Subject to this Act the proceedings of the Commission may be regulated in such manner as the members think fit.

(2) A meeting of the Commission may be convened by the Minister or by the chairperson, and where 2 or more members give notice in writing to the chairperson requiring him to convene a meeting in relation to any matter the chairperson shall at their request

convene a meeting of the Commission to be held within 21 days thereafter to deal with that matter.

(3) The Minister shall convene the first meeting of the Commission as soon as practicable after the coming into operation of this section, and thereafter the Commission shall hold meetings at such times and places as the Commission determines.

(4) Unless in relation to any particular matter the Minister directs that a unanimous resolution is required, a question arising at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting, but if the votes cast on a question are equally divided the member presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(5) A member who has a direct or indirect pecuniary interest in a matter referred to the Commission —

(a) shall, as soon as is practicable after becoming aware of the existence or relevance of the interest, disclose the fact that he has the interest to the person presiding at the next meeting of the Commission; and

(b) may participate in the discussions of the Commission in relation to the matter but shall not vote thereon, unless the interest that the person has is, or in the context of the vote is, determined by the person presiding at the meeting where the vote is to be taken to be an interest that could not reasonably be regarded as likely to have an influence on the exercise of the vote and the person so presiding indicates that such a vote may be exercised,

and particulars of any such determination shall be recorded in the record of the proceedings.

(6) In all cases of dispute, doubt or difficulty respecting or arising out of matters of procedure or order, or as to the determination of a pecuniary interest of a member, the decision of the member presiding is final.

(7) A record of the proceedings of every meeting shall be kept in such manner as the Commission may determine, and shall be corrected as necessary and certified by the member presiding at that or the next succeeding meeting.

[Section 17 amended: No. 35 of 2003 s. 168.]

Division 6 — Staff, etc.

18. Staff, contractors etc.; Commission may ask Commissioner of Police to inquire etc. into various matters

(1) The Commission may by arrangement with the relevant employing authority make use, either full-time or part-time, of the services of any officer or employee —

(a) in the Public Service; or

(b) in a State agency or instrumentality; or

(c) otherwise in the service of the Crown in right of the State.

(1a) The Commission may by arrangement with —

(a) a department of the Public Service; or

(b) a State agency or instrumentality,

make use of any facilities of the department, agency or instrumentality.

(2) An arrangement under subsection (1) or (1a) is to be made on such terms as are agreed to by the parties.

(2a) In subsections (1) and (1a) —

employing authority, ***Public Service*** and other expressions used in the *Public Sector Management Act 1994* have the same meanings as they have in that Act.

(3) The Commission may engage, under contract for services, such consultants as may be necessary to enable the Commission to carry out effectively its functions under this Act, the

RWWA Act and the *Betting Control Act 1954*, and may enter into arrangements with statutory authorities, educational establishments, or other bodies or persons, whether in the State or elsewhere, with respect to the conduct of any research, study, inquiry or investigation or to any professional, technical or other assistance that may be necessary or expedient for the purposes of this Act, the RWWA Act or the *Betting Control Act 1954*.

(4) On the request of the Commission the Commissioner of Police may cause inquiry or investigations to be made as to —

(a) any testimonial, books or other information supplied by or on behalf of a person who is the holder of, or an applicant for, any permit, approval or certificate under this Act or any licence or other authorisation conferred pursuant to the *Betting Control Act 1954*, the RWWA Act or any other written law that relates to gambling; and

(b) the character or reputation of any such person, including as to whether or not, and the extent to which, that person acts or is reputed to be accustomed to act in accordance with the directions or interests of any other person; and

(c) the suitability of such a person to conduct or be concerned in the conduct of permitted gaming, and where the case requires as to the suitability of any individual appointed as a nominee on behalf of such a person, or of a person for whom another acts as nominee; and

(ca) the suitability of —

(i) such a person to conduct, or to be concerned in the conduct of, wagering under the *Betting Control Act 1954* or the RWWA Act; or

(ii) any individual appointed on behalf of such a person, whether as a nominee or otherwise; or

(iii) a person for whom another acts, whether as a nominee or otherwise;

and

(cb) the character, reputation, and antecedents of any person who occupies or seeks to occupy a position of authority in a body corporate or is or wishes to become a member of a partnership that is the holder of, or an applicant for, a bookmaker's licence under the *Betting Control Act 1954*, and of any associate or suspected associate of that person, including as to whether or not, and the extent to which, that person acts or is reputed to be accustomed to act in accordance with the directions or interests of any other person; and

(d) any premises, facilities, gaming or other equipment, instruments of gaming, machine, accounting procedures, advertising or inducements, used or suspected of being used in connection with gambling or suspected gambling, or intended to be so used; and

(e) any matter concerning a licensed casino; and

(f) the conduct or suspected conduct of any gambling, or suspected gambling; and

(g) allegations, representations or objections made in respect of any such matters,

and shall report thereon to the Commission, and if the Commission so requests to a court.

[Section 18 amended: No. 32 of 1994 s. 19; No. 24 of 1998 s. 38; No. 35 of 2003 s. 132 and 166.]

19. Government departments, statutory bodies etc. to assist Commission

(1) All departments of the Public Service of the State and all instrumentalities or agencies of the Government established or administered pursuant to any Act (including any local government) shall, and are hereby authorised to, give to the Commission such assistance in the carrying out of its functions as is reasonably practical, and shall comply with all reasonable

requests for information made by the Commission, but this provision shall not be taken as exempting the Commission from any requirement as to the payment of fees or charges.

(2) The Minister of the Crown having responsibility for any such department, instrumentality or agency may, on the request of the Commission, direct that body to provide assistance to the Commission, and any such direction may require that the services (whether administrative, technical or otherwise) of any person employed or engaged by that department, instrumentality or agency, or any facilities, shall be made available for the purposes of this Act and the *Betting Control Act 1954*.

[Section 19 amended: No. 32 of 1994 s. 19; No. 14 of 1996 s. 4; No. 35 of 2003 s. 133.]

20. Reports, effect of and privilege attached to; official information, disclosure of etc.

(1) Where any report is required pursuant to this Act that report shall be given due consideration, but the Commission, or any magistrate, shall not be bound to give effect to any recommendation therein contained.

(2) The contents of any report made to the Commission by a committee of the Commission, an authorised officer, a member of the Police Force or any other person required under this Act to furnish such a report are absolutely privileged —

(a) from production; and

(b) in relation to any proceedings for defamation in any court of law,

unless the Commission or a judge otherwise directs.

(3) A person shall not, either directly or indirectly, except in the performance of a function or duty under or in connection with this Act, the RWWA Act or the *Betting Control Act 1954* —

(a) make a record of, or divulge or communicate to any other person, any information concerning the affairs of another person acquired by him by reason of his office,

employment or engagement under or for the purposes of this Act or any other written law relating to gambling; or

(b) produce to any person any report, books or other thing relating to the affairs of another person furnished for the purposes of this Act or any other written law relating to gambling.

Penalty for this subsection: a fine of $50 000.

[Section 20 amended: No. 35 of 2003 s. 134 and 166; No. 50 of 2003 s. 66(2); No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

Division 7 — Confidential police information

[Heading inserted: No. 73 of 2006 s. 113.]

20A. Certain information provided by police to be kept confidential

(1) In this section —

confidential police information means any information or document classified as confidential under subsection (2);

relevant Act means this Act, the *Betting Control Act 1954*, the RWWA Act or the *Casino Control Act 1984*.

(2) For the purposes of this section, the Commissioner of Police may classify as confidential any information or document that is —

(a) provided by the Commissioner of Police to the Commission as a report, or part of a report, under section 18(4); or

(b) otherwise provided by the Commissioner of Police to the Commission for the purposes of a relevant Act.

(3) Despite any provision of a relevant Act, any information or document provided by the Commissioner of Police to the Commission for the purposes of a relevant Act must not be published or disclosed by the Commission to any person (except to the Minister, the Parliamentary Commissioner for

Administrative Investigations appointed under section 5 of the *Parliamentary Commissioner Act 1971*, the Corruption and Crime Commission established under the *Corruption, Crime and Misconduct Act 2003*, the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption, Crime and Misconduct Act 2003*, a court or a person to whom the Commissioner of Police authorises its disclosure) if the information or document is classified as confidential police information.

(4) If —

(a) the Commission —

(i) refuses to grant or issue or renew; or

(ii) amends, suspends, cancels or revokes,

any permit, approval, certificate, licence or authorisation under a relevant Act; and

(b) the decision to do so is made solely or partly on the basis of confidential police information provided to the Commission,

the Commission is not required to give any reasons for the decision other than that the decision is made in the public interest.

(5) In any proceedings (other than proceedings for an offence) before a court under a relevant Act, the court —

(a) must, on the application of the Commissioner of Police, take all reasonable steps to maintain the confidentiality of confidential police information, including steps —

(i) to receive evidence and hear argument about confidential police information in private and in the absence of any party to the proceedings other than the Commission or the Commissioner of Police or their representatives; and

(ii) to prohibit the publication of evidence about confidential police information;

and

(b) may take evidence consisting of or relating to confidential police information by way of an affidavit of a member of the Police Force of or above the rank of Superintendent.

(6) The Commissioner of Police must not delegate the function of classifying information or documents as confidential police information except to a Deputy Commissioner of Police or an Assistant Commissioner of Police.

[Section 20A inserted: No. 73 of 2006 s. 113; amended: No. 35 of 2014 s. 39.]

Part III — Enforcement

21. Authorised officers, appointment and duties of and reports by

(1) The Commission shall appoint, from amongst persons to whom section 18 applies, such persons as may be necessary to carry out the duties of an authorised officer under this Act and the *Betting Control Act 1954* and shall furnish any such officer with a certificate evidencing the appointment.

(2) The Commission may, by arrangement with a local government, delegate to any duly appointed employee of that local government such of the duties imposed and powers of examination and report conferred on an authorised officer by this section as the Commission may determine.

(3) It is the duty of an authorised officer to examine and report on any matter that, in his opinion, affects the administration of this Act or the *Betting Control Act 1954* or upon which the Commission may require him to report and, in particular —

(a) to report to the Commission on the conduct, nature, extent and standard of any gaming, and as to the facilities provided, at approved premises and elsewhere; and

(b) to report to the Commission on the nature and extent of any premises in respect of which approval is sought, or the change in use of any part or parts of any existing approved premises; and

(c) to examine and report on any permitted gaming or proposed permitted gaming as he thinks fit or as may be required by the Commission; and

(d) otherwise, to assist and advise the Commission whenever so required by the Commission.

(4) Where an authorised officer makes a report with respect to any particular premises, but not in so far as the report relates to the nature, extent or standard of gaming conducted, the Commission —

(a) shall, where the Commission is not satisfied as to any matter in respect of the premises, on request cause a copy to be sent to the owner of the premises or his agent (if known) or, where the owner is not the permit holder or proposed permit holder, to the permit holder or proposed permit holder or his agent, as the case may require; and

(b) shall make such part of the report as the Commission thinks appropriate available for inspection, on request, by the local government or by a person who has made submissions to the Commission or the Minister in respect of those premises or a permit relating to those premises.

[Section 21 amended: No. 14 of 1996 s. 4; No. 35 of 2003 s. 135.]

22. Permitted gaming and social gambling, powers to scrutinize etc.

(1) An authorised officer or a member of the Police Force is entitled —

(a) to demand entrance to, and enter, inspect and remain on, any premises when permitted gaming or social gambling is, or purports to be, being conducted at those premises under this Act; and

(b) to examine at such time and from time to time all gaming equipment, instruments of gaming, books, and things relating, or suspected by him of relating, thereto and to scrutinize and inquire into the conduct of the gambling.

(2) An authorised officer may, on production of the certificate furnished to him under section 21(1), or, if the authorised officer is not appointed under that provision, any other evidence of office that is reasonable in the circumstances, at any reasonable time demand entrance to, enter and inspect —

(a) approved premises; or

(b) subject to the consent of the occupier, any premises in relation to which the approval of the Commission is sought.

(3) A person carrying out an inspection, scrutiny or inquiry under this section may take with him a surveyor, auditor or other competent person to assist him.

(4) Where admittance to any premises the power to enter which is conferred by this section is refused or delayed for such time as reasonably to lead to the inference that wilful delay was intended, the person refusing admittance or occasioning the delay shall be deemed to have attempted to prevent entry.

(5) Every person who prevents or attempts to prevent an authorised officer or member of the Police Force, or a person to whom subsection (3) applies, from entering and scrutinizing or inquiring into the conduct of any gambling or in examining the premises, or obstructs them or any of them in the discharge of his duties, commits an offence.

Penalty for this subsection: a fine of $20 000.

[Section 22 amended: No. 24 of 1998 s. 39; No. 35 of 2003 s. 136 and 166; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 45.]

23. Other police powers not limited by this Act

Nothing in this Act shall be read or construed as limiting any power or authority conferred on a member of the Police Force by any other Act or law.

24. Commissioner of Police, directions by to police officers

The Commissioner of Police shall issue all such orders, and give all such directions, to members of the Police Force as may, in his opinion, be necessary or expedient to —

(a) prevent gambling contravening the provisions of this Act or any other Act or law; and

(b) ensure the proper and lawful exercise of the following —

(i) a permit granted under this Act;

(ii) a permit or licence granted by the Commission under any other Act;

(iii) a wagering licence as defined in the *Betting Control Act 1954* section 4(1);

and

(c) secure the lawful and orderly conduct of approved premises and permitted gaming and ensure the good behaviour of persons present on those premises or participating in or present at permitted gaming; and

(d) whether in accordance with any request made under section 18(4) or otherwise, provide for the making of such reports to, and the bringing of such applications, complaints and objections before, the Commission as may be necessary or expedient for the proper administration of this Act.

[Section 24 amended: No. 35 of 2003 s. 166; No. 21 of 2019 s. 93.]

25. Entry to premises, arrest etc., warrant authorising

(1) Where a justice is satisfied, upon an application supported by evidence on oath, that there is reason to suspect that —

(a) any premises are, have been or are about to be opened, kept or used as a common gaming house; or

(b) unlawful gaming is, has been or is about to be conducted at any premises; or

(c) an offence is, or is likely to be, committed under this Act at any premises in relation to any gambling conducted or purported to be conducted under the authority of a permit,

he may, by warrant in the prescribed form stating the proposed purpose, empower any authorised officer or member of the Police Force to enter, with such other persons as may be necessary to assist, upon those premises using such force as may be necessary and any such warrant continues to have effect until the purpose for which it was granted is satisfied.

(2) A warrant under subsection (1) authorises the holder and such other persons as are necessary to assist —

(a) to arrest any person found on the premises to which the warrant relates; and

(b) to seize all gaming equipment, instruments of gaming and related furnishings and any books, money or other thing which there are reasonable grounds for believing may be required as evidence for the purposes of proceedings in respect of the premises or of any gambling or of the playing of an unlawful game; and

(c) to search —

(i) the premises; and

(ii) all persons found at or in the immediate vicinity of the premises and suspected of being concerned in an offence under this Act.

[Section 25 amended: No. 35 of 2003 s. 166; No. 84 of 2004 s. 80.]

26. Evidence, information etc., powers to seize, obtain etc.

(1) The Commission, an authorised officer or a member of the Police Force may for the purposes of this Act —

(a) seize and detain, or make extracts from or copies of, any books or other material evidence found during the course of the exercise of a power conferred by this Act; and

(b) require a person found in any premises entered, or in the immediate vicinity of those premises and suspected of having at a material time been in the premises, to —

(i) answer any question put to him or to give or cause to be given any information, in so far as he appears to be in a position to provide material information; or

(ii) to produce or cause to be produced, for inspection, any books or other material evidence in his possession or apparent control,

to the extent that the person is capable of complying with the requirement.

(1a) Where the Commission, an authorised officer or a member of the Police Force believes on reasonable grounds that any answer given or any information or evidence given or produced, or caused to be given or produced, by a person under subsection (1)(b) is false, the Commission, authorised officer or member may require the person to verify the answer, information or evidence by statutory declaration or in any other manner that is reasonable in the circumstances.

(2) In subsection (1), ***material evidence*** means evidence which in the opinion of the person exercising the power is likely to be relevant to the investigation of a suspected offence under this Act or to the function of the Commission.

[Section 26 amended: No. 24 of 1998 s. 40.]

27. Information, production of books, accounts etc., powers to require

(1) Where the Commission believes that a person is capable of giving information or producing books or other evidence material to a matter that is in the opinion of the Commission likely to be relevant to the investigation of any suspected offence under this Act or any other written law relating to gambling, or otherwise to the functions of the Commission or the Minister, the Commission, by notice in writing served on that person, may require that person —

(a) to give the information or produce the books or other evidence to the Commission, or to a person specified in the notice acting on behalf of the Commission, within the time and in the manner specified in the notice; or

(b) to cause the same to be so given or produced.

(2) Without limiting the generality of subsection (1), the power of the Commission under that subsection includes the power —

(a) to require any corporation within the meaning of the *Corporations Act 2001* of the Commonwealth or any other body of persons, corporate or unincorporate, to give particulars of the names and addresses of persons who are the holders of shares or other interests in that corporation or other body; and

(b) to require a person who is registered or otherwise recorded as the holder of shares or other interests in that corporation or other body to give to the Commission all relevant information, or such information as the Commission may specify, in the possession or control of the person in relation to the beneficial ownership of those shares or that interest, or any right attaching to those shares or that interest, or in relation to any trust, agreement, arrangement, understanding or practice, affecting those shares or that interest or any right attaching to those shares or that interest; and

(c) to require that the information be verified by statutory declaration signed by a person or the holder of an office specified by the Commission, or by a competent officer of the corporation or other body; and

(d) to require a person from whom the Commission may seek information to afford to the Commission such facilities in matters relating to that information as may be necessary to enable the information to be interpreted or collated or as the Commission may from time to time specify.

(3) In connection with any pending application for a permit the Commission may at any time require accounts to be furnished by —

(a) the organiser or manager of any permitted gaming; or

(b) any promoter, secretary, treasurer, or any one of the committee of any body of persons by or on whose behalf any gaming was or is to be conducted,

in relation to the gaming generally conducted by or on behalf of that person previously, or such aspects as the Commission may specify, and may in connection with the accounts require the production to the Commission of all books and things relating to the gaming, where no report pursuant to section 57 was required to be furnished.

[Section 27 amended: No. 24 of 1998 s. 41; No. 10 of 2001 s. 86; No. 35 of 2003 s. 166 and 167.]

27A. Authorised officers to be public officers for *Criminal Investigation Act 2006*

For the purposes of the *Criminal Investigation Act 2006* section 9 —

(a) the office of authorised officer is prescribed for the purposes of this Act, the *Betting Control Act 1954* and the *Casino Control Act 1984*; and

(b) the powers in Parts 2, 6, 7 and 12 of that Act are prescribed in respect of the office for the purposes of this Act, the *Betting Control Act 1954* and the *Casino Control Act 1984*.

[Section 27A inserted: No. 53 of 2024 s. 46.]

28. Recovering moneys payable to Commission

(1) An amount that is payable by a person to the Commission under this Act but is not paid may be recovered from that person as a debt due to the Commission in any court of competent jurisdiction.

(2) Where an amount is payable to the Commission by any person, but by reason of his failure to keep or to produce or furnish to the Commission or other proper person the report, return, records or other books or things required under this Act, or to take or permit to be taken any other step which he is so required to take or permit to be taken, or by reason of the report, return, records or other books or things kept, produced or furnished being materially incomplete or inaccurate, the Commission is unable to ascertain the amount properly payable by him, the Commission may estimate the amount payable and (without prejudice to the recovery of the full amount payable or to the making of a further estimate under this subsection) the amount estimated shall be recoverable as an amount properly payable and not paid unless in any action relating thereto the person liable proves the amount properly payable and that amount is less than the amount estimated.

(3) For the purpose of any action in a court of competent jurisdiction to recover an amount payable to the Commission under this Act as a debt due to the Crown a certificate signed by a member of the Commission stating the circumstances and provision under which the amount became payable and certifying the amount alleged or, where subsection (2) applies, estimated to be payable by a person and that the amount has not been paid is evidence that the amount so specified is payable to

the Commission in accordance with this Act and has not been paid.

29. Hindering etc. Commission etc. and false etc. answers, offences as to

(1) A person —

(a) who without lawful excuse —

(i) hinders the Commission, an authorised officer or other officer of the Commission acting in the course of the duties of that officer, a member of the Police Force, or an auditor appointed under this Act in relation to any gambling, in the exercise or purported exercise of a power conferred by this Act or any other written law relating to gambling; or

(ii) refuses or fails to comply with a requirement of the Commission, such an authorised officer or other officer of the Commission, or a member of the Police Force, or such an auditor, lawfully made under this Act or such a written law;

or

(b) who knowingly or recklessly —

(i) for the purpose of obtaining a benefit for himself or any other person, in or in relation to any application made in respect of an approval, permit or certificate under this Act or in respect of any licence or other matter under any other written law relating to gambling, or its renewal or re-instatement; or

(ii) in relation to any report, books or other thing furnished or required to be furnished; or

(iii) in purported compliance with a requirement made under this Act or such a written law,

makes any statement, that is false or misleading or which makes any material omission, or furnishes or causes to be furnished any report, book or other thing that is false or is misleading in a material particular, or which makes any material omission,

commits an offence.

Penalty for this subsection: a fine of $100 000.

(2) Where in relation to any gambling an independent auditor is appointed by the Commission or an authorised officer or member of the Police Force is assisted by an auditor under section 22, a person who —

(a) being a person conducting or associated in any manner with the gambling, fails to answer truthfully to the best of his knowledge, information and belief, any question asked of him by the auditor, or fails to disclose to the auditor all books and things which may be in his possession or control relating to the gambling; or

(b) being such an auditor, is guilty of any neglect or breach of duty under this Act,

commits an offence.

Penalty for this subsection: a fine of $100 000.

[Section 29 amended: No. 35 of 2003 s. 166; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 47.]

30. Incriminating information to be provided but is not admissible

A person is not excused from giving information or producing books or any other thing when required to do so under this Act or under any other written law relating to gambling on the ground that the information, books or other thing might tend to incriminate him, but his answer to any question asked, his giving of any other information, the production by him of any books or other thing or his compliance with the requirement in

any other respect is not admissible in evidence against him in any criminal proceedings, other than proceedings under this Act or that other written law.

[Section 30 amended: No. 35 of 2003 s. 166.]

31. Seizure without warrant

Any authorised officer or member of the Police Force may seize any gaming equipment, instrument of gaming, books, money or other thing which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under this Act or any other written law relating to gambling or which appears to him to contravene a condition of any approval, permit or certificate under this Act.

[Section 31 amended: No. 35 of 2003 s. 166; No. 59 of 2006 s. 48.]

31A. Powers to assist seizing things

Sections 146 to 150 of the *Criminal Investigation Act 2006* apply to and in respect of seizing a thing that is or may be seized under this Act or the *Betting Control Act 1954*.

[Section 31A inserted: No. 59 of 2006 s. 49.]

32. Certain seized things to be forfeited to Crown

[(1) deleted]

(2) Where any thing is seized under this Act in relation to an offence of a kind that is prescribed for the purposes of this subsection, the court by or before which a person is convicted of an offence to which that thing relates shall order any such thing to be forfeited to the Crown.

[Section 32 amended: No. 24 of 1998 s. 42; No. 70 of 2004 s. 82; No. 59 of 2006 s. 50.]

32A. Disposing of seized or forfeited things

(1) In this section —

seized thing means any thing that is seized under this Act, the *Betting Control Act 1954* or the *Casino Control Act 1984*.

(2) The *Criminal and Found Property Disposal Act 2006* applies to and in respect of any seized thing and any thing that is forfeited to the Crown under this Act, the *Betting Control Act 1954* or the *Casino Control Act 1984*.

(3) For the purposes of the *Criminal and Found Property Disposal Act 2006* —

(a) the Commission is a prescribed agency;

(b) the chief executive officer of the Department is the chief officer of the Commission.

[Section 32A inserted: No. 59 of 2006 s. 51; amended: No. 53 of 2024 s. 48.]

33. Prosecuting offences

(1) An offence under this Act, the *Betting Control Act 1954* or any other written law relating to gambling may be prosecuted at any time.

(2) The conviction or acquittal of a person on a charge of an offence under this Act, the *Betting Control Act 1954* or any other written law relating to gambling shall not prevent a further prosecution and conviction in respect of a continuation of that offence after the date on which he was convicted or acquitted.

(3) Proceedings for an offence under this Act or the *Betting Control Act 1954* may be instituted by a member of the Police Force or by a person authorised in writing by the Commission to institute those proceedings in a particular case.

(4) If proceedings for an offence under this Act or the *Betting Control Act 1954* are instituted by a member of the Police

Force, the Commissioner of Police shall notify the Commission in writing of —

(a) the name of the person or persons against whom the proceedings have been instituted; and

(b) the offence or offences alleged in the proceedings; and

(c) the result of the proceedings.

[Section 33 amended: No. 24 of 1998 s. 43; No. 35 of 2003 s. 137 and 166; No. 84 of 2004 s. 80.]

34. Offences to be dealt with by magistrate

A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.

[Section 34 inserted: No. 59 of 2004 s. 141.]

35. General penalty

The penalty for an offence under this Act for which no penalty is specifically provided is a fine of $50 000.

[Section 35 inserted: No. 50 of 2003 s. 66(3) amended: No. 53 of 2024 s. 71.]

36. Infringement notices

(1) In this section —

relevant Act means —

(a) this Act; and

(b) the *Betting Control Act 1954*; and

(c) the *Casino (Burswood Island) Agreement Act 1985*; and

(d) the *Casino Control Act 1984*; and

(e) an Act relating to the regulation of gambling, including the regulation of casinos, prescribed for the purposes of this definition.

(2) If a relevant Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, this section has effect in relation to issuing infringement notices under that Part for alleged offences under the relevant Act and in relation to infringement notices so issued.

(3) For the purposes of the *Criminal Procedure Act 2004* Part 2 —

(a) the Commission may perform the functions of an approved officer under the *Criminal Procedure Act 2004* Part 2; and

(b) an authorised officer or a member of the Police Force (a ***police officer***) may perform the functions of an authorised officer under the *Criminal Procedure Act 2004* Part 2.

(4) An infringement notice must be served within —

(a) 28 days after the day on which an authorised officer or police officer becomes aware that the alleged offence has or may have been committed; and

(b) 6 months after the day on which the alleged offence is believed to have been committed.

(5) For the purposes of the *Criminal Procedure Act 2004* section 7(2), the means by which an authorised officer or a police officer can show that they are authorised to issue infringement notices is —

(a) for an authorised officer — their certificate of appointment under section 21(1); and

(b) for a police officer — evidence that they are a police officer which (where relevant) includes that they are in uniform.

(6) For the purposes of the *Criminal Procedure Act 2004* section 15(2), the form of the notice that an infringement notice has been withdrawn may be prescribed under this Act for each other relevant Act.

(7) Money paid as a modified penalty is, subject to the *Criminal Procedure Act 2004* section 15(4), to be dealt with under section 9(2) as money received by the Commission.

(8) The *Criminal Procedure Act 2004* Part 2 is modified to the extent necessary to give effect to this section.

[Section 36 inserted: No. 53 of 2024 s. 49.]

37. Liability of officers for offence by body corporate

The Criminal Code section 39 (which provides for the criminal liability of officers of a body corporate) applies to an offence under a provision of this Act listed in the Table.

Table

s. 22(5)	s. 29(1) and (2)
s. 41(3)	s. 43A(2)
s. 44(1)	s. 45(1) and (2)
s. 57(3)	s. 85(4)
s. 89(2)	s. 93B(3)
s. 104C(4)	s. 104E(1), (2) and (3)
s. 104F(1) and (4)	s. 104L(1), (2) and (3)
s. 104M(1), (2) and (3)	s. 106(1)
s. 109H(1), (2), (3) and (4)	

[Section 37 inserted: No. 9 of 2023 s. 79; amended: No. 53 of 2024 s. 50.]

38. Service of notices

For the purposes of this Act or any other written law relating to gambling a notice or other document may be given to, or served on —

(a) a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth, or a shareholder in such a corporation, by sending the document to the corporation or that shareholder in a manner that is the same as a manner authorised by that Act for the service of documents; or

(b) a body of persons incorporated, or taken to be incorporated, under the *Associations Incorporation Act 2015*, by service in a manner authorised for the service of a notice under that Act,

or in any manner authorised by the *Interpretation Act 1984*.

[Section 38 amended: No. 24 of 1998 s. 45; No. 10 of 2001 s. 88; No. 35 of 2003 s. 139; No. 30 of 2015 s. 217.]

39. Evidentiary provisions for charges of offences

(1) In any proceedings under this Act or for an offence under *The Criminal Code* —

(a) it shall not be necessary to prove the appointment of the Minister or a member of the Commission, and all courts and persons acting judicially shall take judicial notice of a signature attached or appended to a document purporting to be issued under this Act if the signature purports to be that of a person who at the relevant time is or was the holder of such an office, unless the contrary is proved; and

(b) a document signed by a member of the Commission stating that at the time or during the period stated in the document —

(i) a person named in the document was an authorised officer or an inspector of soccer football pools for the purposes of this Act generally or for such of those purposes as are specified in the document; or

(ii) an approval was granted, a permit or certificate was issued, a requirement was made, or a direction or notice was given, or was in force or had effect, or had been amended, or was not in force or was of no effect, in relation to the circumstances specified in the document, or had been served on any person, under this Act,

shall be evidence of the facts stated and, in the absence of evidence to the contrary, conclusive evidence; and

(c) a document or writing purporting to be a copy of any approval granted or permit or certificate issued, or of any requirement made or direction or notice given, under this Act shall be evidence of the approval, permit, certificate, requirement, direction or notice of which it purports to be a copy and, in the absence of evidence to the contrary, conclusive evidence; and

(d) an averment that —

(i) a person is of a specified age or is under or over a specified age; or

(ii) that any premises at which an offence was committed was a place to which an approval, permit or certificate applies or did not apply; or

(iii) a specified game is of a kind essentially similar to a game of another specified kind; or

(iiia) a specified game is a game that is commonly played in casinos (whether in Australia or

elsewhere) or is a variation or derivative of such a game; or

(iv) in proceedings against a person in his capacity as the holder of a permit or certificate, that the person is the holder of a specified permit or certificate; or

(v) a person is a person to whom a permit or certificate was not issued,

shall be evidence of the facts stated and, in the absence of evidence to the contrary, conclusive evidence; and

(e) where an authorised officer, a member of the Police Force, or a person acting at the request of an authorised officer or member of the Police Force, enters into any gaming or wager and another person is charged with an offence arising out of the gaming or wager, on the hearing of the charge the authorised officer, member of the Police Force or person acting on request —

(i) is deemed not to be an accomplice of the person charged and not to be guilty of an offence; and

(ii) may give evidence,

and his evidence shall be deemed not to be the evidence of an accomplice; and

(f) a person may be convicted on the uncorroborated evidence of an accomplice, and shall not be acquitted by reason only that the only evidence is the uncorroborated evidence of an accomplice unless the truth of that evidence is suspect; and

(g) an act, admission or statement of an employee or agent of a person charged with an offence is admissible as evidence, whether it is done, made or given in the presence of that person or not; and

(h) where an element of an offence is an act or omission on the part of the permit holder a prosecution for such an offence may be commenced against an individual

approved and appointed as the nominee permit holder on behalf of a body of persons; and

(j) the authority of a person to accept service of documents under this Act on behalf of another shall be presumed in the absence of evidence to the contrary.

(2) For the purposes of this Act —

(a) in determining whether a game, which is played otherwise than against one or more other players, is a game of chance the possibility that superlative skill can overcome the element of chance shall be disregarded, except for the purposes of section 42(3)(a); and

(b) it is immaterial whether a charge or levy is compulsory, customary or voluntary, and any reference to making a charge or charging a levy shall be construed accordingly; and

(c) the public shall be deemed to have or be permitted to have access to a place where that place is for the time being open to the public whether or not a charge or levy is made or payment for admittance is required; and

(d) the playing of a game of chance or participation in any activity which —

(i) is an authorised game as defined by the *Casino Control Act 1984* played in accordance with rules approved under that Act in a licensed casino as so defined; or

(ii) is a game of a kind the playing of which is authorised by regulations made pursuant to section 42(3)(c), when played in such circumstances and in accordance with such conditions as are thereby prescribed; or

(iii) is conducted under the *Lotteries Commission Act 1990*,

does not constitute gambling contrary to the provisions of this Act, except in so far as section 44 or 45 applies; and

(e) a machine shall be taken not to be used for gaming if it is used in premises of a prescribed kind or class and if it is constructed or adapted or used in such a way that —

(i) a person playing it once and successfully receives nothing except an opportunity, afforded by the automatic action of the machine, to play again (once or more often) without paying; or

(ii) where a person plays it once and successfully, that which he receives is determined by the automatic action of the machine and is either a money prize not greater than the amount payable to play the machine once or a token which is, or tokens which in the aggregate are, exchangeable only for such a money prize.

(3) Where on the hearing of a prosecution —

(a) for an offence requiring proof that any premises were kept or used or resorted to for playing any unlawful game or any game of chance, and a person is found to have been so playing; or

(b) relating to —

(i) gambling in; or

(ii) opening, keeping or using; or

(iii) being concerned in the conduct of,

premises being a common gaming house, and a person is found to have been gambling there,

it shall be presumed, unless the contrary is proved, that games played at those premises were games played for money.

(4) Where a person is found to have been present at any unlawful game or game of chance it shall be presumed that he was

present for the purpose of taking part in the game, unless he proves that he was present neither for that purpose nor for the purpose of —

(a) taking part in the conduct of the game; or

(b) operating or using any gaming equipment, instrument of gaming, related furnishings, or any other thing whatsoever used in connection with the game or any wager; or

(c) making or receiving wagers, with respect to the game or otherwise.

(5) Gaming pursuant to a permit shall not be taken to be conducted for the purposes of private gain by reason only that a person concerned in the conduct of the gaming receives reasonable remuneration in respect of his services in that capacity.

[Section 39 amended: No. 16 of 1990 s. 33; No. 24 of 1998 s. 46; No. 35 of 2003 s. 140, 166 and 167; No. 84 of 2004 s. 80.]

40. Evidentiary provisions for charges involving common gaming houses

(1) Where a person is charged with an offence in relation to any premises alleged to be a common gaming house —

(a) it shall be presumed that an element of gain or reward was involved, unless the contrary is proved, if it is shown that paragraph (b), or any one or more of the circumstances referred to in paragraph (c), applied;

(b) it shall not be necessary to prove that a number of persons habitually congregated at the premises, if at the time of the alleged offence 8 or more persons were present at those premises;

(c) it shall be sufficient evidence to support the allegation that any premises were, or were opened, kept or used as,

a common gaming house if it is proved in relation to any game there played that —

(i) the game is an unlawful game; or

(ii) the game involves playing, staking or wagering against a bank, whether the bank is held by one of the players or not; or

(iii) the nature of the game is such that the chances in the game are not equally favourable to all players; or

(iv) the nature of the game is such that the chances in it lie between the player and some other person, or (if there are 2 or more players) lie wholly or partly between the players and some other person, and those chances are not as favourable to the player or players as they are to that other person; or

(v) the gaming was so conducted that the chances therein were not equally favourable to all the players; or

(vi) a charge, in money or money's worth (apart from any stakes hazarded or wagers placed) was made in respect of the gaming or wagering, or a levy was charged on any of the stakes or wagers or on the winnings of any of the players, whether by way of direct payment, by deduction, or by any other means.

(2) Where a person is convicted of an offence in relation to any premises found to be a common gaming house, any gaming equipment or instruments of gaming and any books, furniture or furnishings found at the premises shall, until the contrary is proved, be deemed to have been used in, or ancillary to, the conduct of the premises as a common gaming house.

(3) Despite any rule of law, premises shall not be taken to be a common gaming house or a common betting house by reason only of the carrying on there of gaming or wagering.

(3a) It shall be a defence for a person charged with an offence under section 41 in relation to gaming or wagering at any premises to show that the gaming or wagering was permitted gaming or social gambling.

(4) Where —

(a) any gaming equipment is, or instruments of gaming are, found at any premises authorised to be entered or about the person of any of those found there; or

(b) any door to, or access or passage to or in, any premises so authorised to be entered is found to be fitted or provided with any means or contrivance intended or adapted or used so as to prevent, obstruct, delay or hinder entry by any such authorised person, or for giving information, as to, or an alarm in case of, any such entry; or

(c) any premises are found to be fitted or provided with any means or contrivance related to the conduct of unlawful gaming or for removing or concealing any gaming equipment or instruments of gaming; or

(d) any authorised officer or member of the Police Force empowered under this Act to enter any premises is knowingly prevented from, or is wilfully assaulted, resisted, obstructed, delayed or hindered in, entering any premises,

it is admissible as evidence that the premises are used as a common gaming house and any persons found there may, unless the contrary is proved, be presumed to have been present for the purpose of gaming.

[Section 40 amended: No. 35 of 2003 s. 141.]

Part IV — Common gaming houses, unlawful gaming, cheating etc.

40A. Part does not apply to gambling under other written laws

In this Part —

gambling and ***wagering***, except in relation to section 44, do not include gambling under and in accordance with —

(a) the *Betting Control Act 1954*; or

(b) the *Lotteries Commission Act 1990*; or

(c) the RWWA Act; or

(d) the *Casino Control Act 1984*.

[Section 40A inserted: No. 35 of 2003 s. 142.]

41. Common gaming house, meaning of and offences as to

(1) Premises shall be deemed to be a common gaming house if persons habitually congregate there for the purpose of gambling, or section 40(1)(b) applies, and a person —

(a) for gain or reward provides facilities there for others; or

(b) permits or suffers others,

to use the premises as a place for gambling, other than permitted gaming or social gambling, either with himself or between themselves.

(2) For the purposes of this section, the playing of a game of a kind which is prohibited by section 42(1) shall be deemed to be gaming.

(3) Where any premises are opened, kept or used as a common gaming house —

(a) a person concerned in the conduct of the gambling; and

(b) the owner of the premises, unless he proves that he did not know and could not reasonably be expected to have

known that gambling would take place at the premises; and

(c) a person other than the owner of the premises who, knowing or having reasonable cause to suspect that gambling, other than permitted gaming or social gambling, would take place at the premises —

(i) allowed the premises to be used for such a purpose; or

(ii) let the premises, or otherwise made the premises available, to any person by whom an offence in connection with the premises or any gambling there has been committed,

commits an offence.

Penalty for this subsection: a fine of $100 000.

(4) For the purposes of subsection (3), any person who —

(a) causes, procures or attempts to procure any other person to commit an offence of a kind referred to in that subsection; or

(b) knowingly takes part in procuring the assembly of the players; or

(c) assists in the provision of facilities by —

(i) providing, servicing, operating or using any gaming equipment or instrument of gaming; or

(ii) issuing, receiving or recording money, tokens or other consideration used in the gambling or cheques or value given or credit provided in respect of any such money, tokens or consideration in respect of winnings or losses; or

(iii) supervising, controlling or accounting for any gambling,

shall be deemed to have been concerned in the conduct of the gambling.

(5) The court by or before which a person is convicted of an offence under subsection (3) shall order any gaming equipment, instruments of gaming or related furnishings, and any money or other thing which has been seized and which the court is satisfied was found to be on the premises at the time of the offence, not being money or a thing shown to the satisfaction of the court not to relate to the offence, to be forfeited to the Crown.

(6) A person who is present at a common gaming house when any gambling is conducted for the purpose of taking part in that gambling or in other gambling conducted there commits an offence.

Penalty for this subsection: a fine of $5 000.

(7) In so far as they are inconsistent with this Act, the rules of law relating to common gaming houses and common betting houses are abolished.

(8) Any money or other consideration received by a person referred to in subsection (4) from another person in the circumstances referred to in paragraph (c)(ii) of that subsection is to be taken to have been received on trust by the person for the other person and may be recovered accordingly in a court of competent jurisdiction.

[Section 41 amended: No. 24 of 1998 s. 47; No. 35 of 2003 s. 143 and 166; No. 59 of 2006 s. 52; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 51 and 71.]

42. Prohibited gaming and unlawful games defined and offences as to

(1) Subject to subsection (3), the conduct of gaming by means of or the playing of —

(a) thimblerig; or

(b) two-up, other than permitted two-up; or

(c) a game of a kind to which section 46(2)(a) refers or the playing of which would contravene the prohibitions referred to in section 46(2)(b), other than at Burswood Casino; or

(d) gaming equipment to which section 85 applies; or

(e) unless the play constitutes permitted gaming or social gambling —

(i) any game the conduct or playing of which is declared to be unlawful, or to be unlawful in prescribed circumstances, pursuant to this Act; or

(ii) any game that is a variant of, or of a similar nature to, a game of a kind referred to in paragraph (a), (b) or (c) where the chances therein are not equally favourable to all the players; or

(iii) except where subsection (3)(b) applies, any game of chance at any public place to which the public have or are permitted to have access,

is prohibited.

(2) Any game —

(a) of a kind the conduct or playing of which is, subject to subsection (3), prohibited by subsection (1); or

(b) of any kind when played at a common gaming house,

is for the purposes of this Act or any other law deemed to be an unlawful game.

(3) The prohibition declared in subsection (1) shall not have effect in relation to the playing of —

(a) games with prizes being games of chance and skill combined in which skill is the predominant factor where —

(i) the games are played at an agricultural show, a pleasure fair, a fete, or another like event; and

(ii) the opportunity to win prizes at those games is not the only, or the only substantial, inducement to attend the show, fair, fete, or other event;

(b) games of chance not played for winnings in money or money's worth, played at a public place to which the public have or are permitted to have access;

(c) any other game, otherwise than in a common gaming house, if the game —

(i) is of a kind specified; and

(ii) is played in the circumstances specified; and

(iii) is so played as to comply with such conditions (if any) as may be prescribed,

by regulations made for the purposes of this subsection.

(4) Any person who is knowingly concerned in the conduct of an unlawful game commits an offence.

Penalty for this subsection: a fine of $50 000.

(5) A person who plays, or wagers at or in relation to, an unlawful game commits an offence.

Penalty for this subsection: a fine of $5 000.

[Section 42 amended: No. 35 of 2003 s. 144; No. 50 of 2003 s. 66(4); No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

43. Defence of restricted access not available to charge of s. 41 or 42 offence

It shall not be a defence to a charge of an offence under section 41 or 42 to show that access to the premises where the gaming or play took place was in any way or for any reason restricted.

[Section 43 amended: No. 84 of 2004 s. 80.]

43A. Advertising unlawful gambling

(1) In this section —

prohibited advertisement means any form of advertisement that conveys, or is likely to be understood as conveying —

(a) the existence of a common gaming house (as defined in section 41(1)); or

(b) the existence of a person (in this State or elsewhere) who will, on application, give information or advice with respect to unlawful wagering, to unlawful gaming or to an unlawful lottery; or

(c) the existence of a person (in this State or elsewhere) who will, on application, engage in or conduct unlawful wagering, unlawful gaming or an unlawful lottery;

unlawful gaming means gaming other than —

(a) permitted gaming; and

(b) social gambling;

unlawful wagering means wagering other than social gambling.

(2) A person who broadcasts, prints, publishes or distributes, or has in his or her possession for the purpose of publication or distribution, a prohibited advertisement, commits an offence.

Penalty for this subsection: a fine of $50 000.

(3) A person who broadcasts, prints, publishes or distributes, or has in his or her possession for the purpose of publication or distribution, an advertisement that conveys, or is likely to be understood as conveying, the existence of a person (in this State or elsewhere) other than —

(a) RWWA; or

(b) the Lotteries Commission established under the *Lotteries Commission Act 1990*; or

(c) the holder of an approval, authorisation, permit or licence issued under this Act, the *Betting Control Act 1954* or the *Casino Control Act 1984*; or

(da) a person who in another State or a Territory is authorised under a law of the State or Territory to engage in or conduct the business of betting on events; or

(d) any other person or class of person prescribed by the regulations,

who will, on application, engage in or conduct gaming, wagering or a lottery, commits an offence.

Penalty for this subsection: a fine of $50 000.

(4) In subsection (3)(c) —

approval does not include an approval under the *Betting Control Act 1954* section 27D(2).

[Section 43A inserted: No. 35 of 2003 s. 145; amended: No. 70 of 2006 s. 9(2); No. 8 of 2007 s. 13; No. 29 of 2009 s. 19; No. 41 of 2018 s. 19 and 25(1); No. 53 of 2024 s. 71.]

44. Cheating in games etc. to obtain prize etc., offence

(1) Any person who by deceit or any fraudulent means in or in relation to a game, lottery, sport, race, exercise or other contest or pastime —

(a) obtains or attempts to obtain any prize, or any money, property or benefit; or

(b) gains or attempts to gain a benefit, pecuniary or otherwise, for any person; or

(c) causes or attempts to cause a detriment, pecuniary or otherwise, to any person; or

(d) induces or attempts to induce another —

(i) to deliver property to any person; or

(ii) to do any act which he is lawfully entitled to abstain from doing; or

(iii) to omit to do any act which he is lawfully entitled to do,

commits an offence.

Penalty for this subsection: a fine of $100 000.

(2) A person shall be taken to have employed fraudulent means if he cheats or otherwise employs any wrongful practice, trick, scheme or device —

(a) as to the manner of play or the rules applicable; or

(b) in regard to any player, or any gaming equipment, instrument of gaming, entrant or participant; or

(c) in bearing a part in the stakes, wagers or a venture; or

(d) in, or in respect of, wagering on the event, or on the sides, or on the chances, of entrants or participants,

in, in relation to, or of the contest or pastime.

[Section 44 amended: No. 24 of 1998 s. 48; No. 35 of 2003 s. 146; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 52.]

45. Permitted gaming, offences as to

(1) A person who, with intent to defraud —

(a) alters or falsifies any ticket, coupon, token or books; or

(b) makes or concurs in making any false or fraudulent entry in any books; or

(c) omits or concurs in omitting any material particular from any books,

relating to a permitted lottery, permitted gaming or social gambling, commits an offence.

Penalty for this subsection: a fine of $50 000.

(2) A person who, with intent to defraud, conducts a permitted lottery, permitted gaming or social gambling in such a way that

each participant has not an equal chance of winning, commits an offence.

Penalty for this subsection: a fine of $50 000.

(3) A person who, without the written authorisation of the Commission, wilfully diverts the funds raised by a lottery or gaming purporting to be conducted under the authority of a permit for a purpose other than the object for which a permit was issued, commits an offence.

Penalty for this subsection: a fine of $50 000.

(4) A person who conducts a lottery or gambling purporting to be conducted under the authority of a permit otherwise than in accordance with —

(a) a permit which authorises the lottery or gambling; or

(b) any condition imposed in respect of the permit,

commits an offence.

Penalty for this subsection: a fine of $10 000.

[Section 45 amended: No. 16 of 1990 s. 33; No. 24 of 1998 s. 49; No. 35 of 2003 s. 147; No. 50 of 2003 s. 66(4) ; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 53 and 71.]

Part V — Permitted gambling

[Heading amended: No. 35 of 2003 s. 148(1).]

Division 1 — Gaming generally

[Heading amended: No. 35 of 2003 s. 148(2).]

46. Permitted gaming defined

(1) Gaming may be lawfully conducted, and lawfully participated in, where —

(a) it occurs on a day and at a time authorised by a relevant gaming permit; and

(b) it takes place at premises authorised by the permit to be used for permitted gaming of that kind; and

(c) it is of a kind authorised by the permit; and

(d) it is conducted by the permit holder or a person acting on behalf of and subject to the direction of the permit holder; and

(e) it does not contravene any condition imposed in respect of the permit.

(2A) Gaming that is prescribed for the purposes of this subsection may be lawfully conducted and lawfully participated in.

(2) Except in so far as regulations made under this Act may otherwise provide or a permit specifically states, a permit does not authorise the playing of any kind of game —

(a) which is declared to be an authorised game under section 22 of the *Casino Control Act 1984* to be played in a licensed casino or which, although not so declared, is commonly played in casinos (whether in Australia or elsewhere); or

(b) which in that particular part of the State, or in those circumstances, would be subject to the prohibitions contained in clause 22 of the Agreement referred to in

section 3 of the *Casino (Burswood Island) Agreement Act 1985*,

not being a game of a kind referred to in clause 22(5) of that Agreement, and every permit shall be deemed to be subject to an implied condition to that effect which shall not be required to be noted on the permit or in the register.

(3) For the purposes of any proceedings relating to a breach of the implied condition referred to in subsection (2), or of construing any permit or written law relating to gambling, a reference to a particular kind of game shall be taken to include a reference to any game (whether or not alleged to be a variation or derivative of the first-mentioned game and by whatever name called) which is of a kind essentially similar to that game.

(4) A permit does not authorise the conduct of, or participation in, gaming on Christmas Day, or Good Friday or, except in the case of permitted two-up, on the morning of Anzac Day.

[Section 46 amended: No. 24 of 1998 s. 50; No. 35 of 2003 s. 166 and 167; No. 25 of 2011 s. 8.]

47. Gaming permits, types, issue and effect of

(1) A gaming permit may be —

(a) a function permit, having effect —

(i) for the period, not being a period in excess of 7 days; or

(ii) during the function; and

(iii) in respect of the premises,

therein specified, subject to any conditions imposed; or

(b) a permit of a continuing nature, having effect —

(i) for the period, being a period not exceeding 12 months, therein specified; and

(ii) subject to the approval of the Commission to the premises therein specified remaining in force, in respect of those premises; and

(iii) subject to the conditions from time to time imposed;

or

(c) a Ministerial permit, issued under section 48 and having effect according to its tenor,

and shall be issued on an application being made and granted in accordance with this Act and on, or subject to, payment of the prescribed fee but may be revoked or deemed to be revoked, amended or renewed subject to this Act.

(2) A gaming permit —

(a) unless it is issued under section 48, shall be in the prescribed form; and

(b) subject to section 46(4), authorises the permit holder to conduct, or cause to be conducted, and persons to participate in, gaming, in accordance with its tenor and subject to the conditions therein specified or otherwise imposed, but in no other manner.

[Section 47 amended: No. 35 of 2003 s. 167.]

48. Issue of permit on direction by Minister

(1) Where, by reason of a major sporting event, a special occasion or other exceptional circumstances, the Minister so determines, and notwithstanding that the manner of the application or the matter to which it relates is not otherwise provided for by this Act or does not comply with the requirements of or prescribed under this Act, the Minister, after consultation in so far as the Minister thinks fit with the Commission, may direct the Commission —

(a) to issue a permit to a specified person in relation to a specified kind of gaming on specified premises, whether

or not approved premises, on such conditions as are specified; and

(b) as to the period for and manner in which the permit should be issued; and

(c) as to any charge, duty or fee that is to be payable in relation to the permit,

and effect shall be given to that direction and to any permit complying with that direction, subject to section 46(2) and (4).

(2) In subsection (1), ***specified*** means specified in the direction given by the Minister to the Commission.

[Section 48 amended: No. 16 of 1990 s. 33; No. 35 of 2003 s. 167.]

49. Applications for issue or renewal of permit, matters that may be considered when deciding

(1) In determining any application for the issue or renewal of a gaming permit regard may be had to —

(a) whether or not the applicant is a fit and proper person to hold a permit, likely to be capable of and diligent in, securing that this Act will not be contravened and that any permitted gaming will be conducted fairly and properly; and

(b) any arrangement or circumstances whereby the benefit arising from the holding of the permit may accrue to any other person; and

(c) the need for persons having relevant experience to be in attendance at, and where appropriate to conduct, the gaming; and

(d) the gaming equipment or other apparatus that may be required to conduct the gaming, and any need for the approval of the Commission to be obtained to the supply or use of that apparatus; and

(e) the facilities available for the occasion, and the state of the premises where gaming is to occur or which may reasonably be required to be used by participants in or persons present at the gaming; and

(f) the circumstances existing in the immediate vicinity of the premises and any other relevant factor whereby persons may reasonably be disturbed or offended by the proposed use of the premises, taking into consideration the needs of the public.

(2) In determining any application for the renewal of a permit regard may be had to —

(a) any matters to which subsection (1) refers; and

(b) the manner in which —

(i) gaming has been conducted; and

(ii) the premises have been maintained; and

(iii) the use of the premises for gaming has affected the circumstances existing in the immediate vicinity of the premises, other permitted gaming operations, and the needs of the public; and

(iv) persons participating in or present at the gaming have made use of the premises and facilities provided;

and

(c) any circumstances warranting a change in the manner in which any fee or charge is assessed or is paid, and generally as to the nature and amount of the fees and charges payable; and

(d) the eligibility and suitability of the applicant in the light of experience; and

(e) any further or other considerations or circumstances that may be relevant.

(3) For the purposes of this section —

(a) the way in which permitted gaming is conducted by the applicant or by persons employed by him or acting on his behalf, or who are in the opinion of the Commission associated with him, shall be material; and

(b) a permit shall not be issued if in the opinion of the Commission the gaming thereby to be authorised would be likely to be conducted for the benefit of a person who would himself be refused a permit as not being a fit and proper person to hold a permit.

[Section 49 amended: No. 35 of 2003 s. 167.]

50. Register of approvals, permit holders etc., Commission to keep and allow inspection of etc.

(1) The Commission shall maintain a register showing, in accordance with such manner as may be prescribed, particulars of —

(a) persons approved as eligible to hold a permit, and any approved nominee, specifying the body on behalf of which that person or nominee acts and the kind of gaming to which the approval relates;

(b) premises approved —

(i) generally, in relation to function permits; or

(ii) as a venue where permitted gaming may take place under permits of a continuing nature; or

(iii) for other prescribed purposes,

specifying the kind of permitted gaming to which the approval relates;

(c) holders for the time being of permits of a continuing nature;

[(d) deleted]

(e) holders of certificates issued under Part V Division 5,

and short particulars of any condition imposed.

(2) Where a person ceases to be the holder of a permit or certificate or to be approved for any purpose, or any premises cease to be approved premises, the name and any other particulars entered in the register in relation to that person or those premises shall be removed from that part of the register which is current.

(3) A person may inspect and make copies of, or take extracts from, the current register on payment of the prescribed fee.

[Section 50 amended: No. 16 of 1990 s. 33.]

51. Persons eligible to hold gaming permits, approval of

(1) Subject to this Act, any person may apply to the Commission for his or its approval by the Commission as a person eligible to be the holder of a gaming permit.

(2) The Commission shall not approve a person as eligible to hold a permit unless —

(a) where the applicant comprises a body of persons, corporate or unincorporate, an individual approved by the Commission is appointed by and on behalf of that body to be responsible for the conduct of the gaming as nominee permit holder; and

(b) the Commission is satisfied —

(i) that the applicant is, or is concerned in the administration of and makes the application on behalf of, a club, society, institution, organisation, association or other body of persons being a body which, subject to section 81(2), section 95(2) and section 104, has as the principal object of the proposed gaming the raising of moneys in good faith for the active promotion, support or conduct of any sporting, social, political, literary, artistic, scientific,

benevolent, charitable or other like activity detailed in the application; and

(ii) that the gaming is not to be promoted or otherwise conducted for the purposes of private gain or any commercial undertaking; and

(iii) the proceeds of the gaming, after deduction of proper expenses and of prizes, are to be used for the benefit of the activities detailed in the application.

(3) Where an individual is, from time to time, appointed as the nominee permit holder on behalf of a body of persons for the purposes of this section —

(a) that individual shall be primarily responsible for the conduct of the gaming to which the permit relates and where an element of an offence under this Act is an act or omission on the part of that body of persons the nominee may be charged with the offence; and

(b) that individual is entitled to be indemnified by the body of persons by which he was appointed as nominee in respect of any penalty imposed under this Act.

(4) Where a person is approved as eligible to hold a permit —

(a) a permit may be issued to that person, but shall where the applicant comprises a body of persons be issued to a person who is an approved nominee; and

(b) the Commission, or in a case to which section 52(a) refers the magistrate, shall cause to be specified on the permit —

(i) the name of that person and of any body for which he is the nominee permit holder; and

(ii) the date of the issue, and the duration, of the permit and where it is a function permit, the nature of the function; and

(iii) particulars of the premises where the gaming is to be conducted; and

(iv) the kind of gaming authorised by the permit,

and

(c) where the application relates to a permit of a continuing nature, such other particulars as may be prescribed or as the Commission thinks fit, shall be endorsed on the permit,

and particulars of any conditions imposed, other than implied or prescribed conditions, shall be endorsed on or annexed to the permit and the Commission or that magistrate shall cause the relevant particulars to be noted in the register.

[Section 51 amended: No. 24 of 1998 s. 51; No. 35 of 2003 s. 167; No. 84 of 2004 s. 80.]

52. Applications for gaming permits

An application for the issue of a permit —

(a) in the case of a function permit, may be made to the Commission and, if the Commission agrees, informally, but otherwise in the prescribed manner save that an application for a function permit may, instead of being made to the Commission, be made to a magistrate who may on behalf of the Commission issue the function permit where —

(i) the applicant is a person entered in the register as eligible to hold a permit of that kind; and

(ii) the premises on which the permitted gaming is to occur are premises entered in the register as approved for gaming of that kind or are the subject of an application to that magistrate under section 55(1)(a)(ii); and

(iii) any conditions applicable are not contravened or likely to be contravened,

and the magistrate shall cause the Commission to be notified accordingly; but

(b) in the case of a permit of a continuing nature, shall be made to the Commission in writing in the prescribed manner,

and any such application shall, unless the Commission or magistrate dispenses with the requirement, contain or be accompanied by such information as is prescribed and be supported by such further information as the Commission or magistrate may require.

[Section 52 amended: No. 35 of 2003 s. 167; No. 59 of 2004 s. 141.]

53. Fees and charges for gaming permits

(1) A gaming permit shall not be issued otherwise than upon payment of an application fee and such other fees or charges as may be prescribed.

(2) The fees or charges payable in relation to the approval of premises by or on behalf of the Commission shall be such as may be prescribed.

(3) Regulations imposing fees or charges payable in relation to the issue of a permit or in relation to the approval of premises to be used under such a permit may provide —

(a) for an application fee to be payable on the issue of the permit or grant of the approval; and

(b) for periodic, percentage or other payments to be made related to the volume or value of the gaming conducted or to be conducted or to its frequency; and

(c) for the giving of security, by means of a deposit or otherwise, for payments due or to become due; and

(d) for such payments to be made through the permit holder providing, at the place where gaming occurs, facilities

for persons participating in or present at the gaming to make payments in respect of the fees payable; and

(e) for the permit holder to perform specified functions in connection with the payment of or accounting for moneys paid by such persons, including refusing to permit access to the place where the gaming occurs unless the payments required by the regulations are made,

having regard to the need for the continued supervision of the premises and to the nature of the gaming.

(4) The fees payable in relation to the issue of a certificate under section 88 or 92, and in relation to the renewal of any such certificate, shall respectively be such as may be prescribed, and may be prescribed by reference to the operation to be performed or to the circumstances or period for which the certificate is to have effect.

[Section 53 amended: No. 35 of 2003 s. 167.]

54. Charging people to take part in permitted gaming

(1) Except where —

(a) a regulation made under this Act, pursuant to subsection (4) or otherwise; or

(b) a condition imposed in respect of a permit,

otherwise provides, no gambling shall be conducted in circumstances where (apart from any stakes hazarded or wagers placed) a charge, in money or money's worth, is made in respect of that gambling.

(2) Subject to subsections (3), (4) and (5), any admission charge shall, unless the contrary is proved, be taken to be a charge made in respect of the gambling.

(3) Where it is shown that a club, society, institution, organisation, association or other body of persons is so constituted and conducted, in respect of membership and otherwise, as not to be of a temporary character, a payment which constitutes payment of, or of a quarterly or half-yearly instalment of, an annual subscription to that body, or of an entrance subscription not made in respect of temporary membership, shall not be taken to be a charge made in respect of the gambling, notwithstanding that it operates as an admission charge.

(4) Regulations made under this Act may impose an implied condition providing that a charge may be made in respect of any person for the right to take part in the permitted gaming, or permitted gaming of a prescribed kind or in prescribed circumstances, where the charge, or if more than one the aggregate amount of the charges, made on any one day or in respect of any one prescribed period does not exceed such sum as is prescribed.

(5) Where permitted gaming takes place on approved premises, charges may be made in respect of the gaming in such circumstances as a condition imposed in relation to a permit in respect of that gaming, or to permitted gaming of that kind, may provide, and any such condition —

(a) may enable different charges to be made in respect of different facilities (whether provided in different parts of the same premises or by way of different games or of the same game played at different tables or otherwise) or in respect of permitted gaming facilities provided at the premises during different sessions of play; and

(b) may provide that a levy, of such amount or calculated in such a manner as is therein specified, may in circumstances therein specified be charged on the stakes or on the winnings of the players.

(6) A charge shall not be made in relation to permitted gaming unless particulars of the charges and of the circumstances in which they are chargeable —

(a) are displayed at the premises; and

(b) where the regulations or a condition so provide —

(i) the charges are approved by the Commission; and

(ii) the particulars comprise such matters as the Commission requires, and are displayed in such a manner and positions as the Commission requires.

[Section 54 amended: No. 35 of 2003 s. 149, 166 and 167.]

55. Approving premises for gaming

(1) An application for the grant by the Commission of approval to the use of premises for gaming —

(a) in the case of premises to be used for the purposes of a specific function permit, may —

(i) if the Commission agrees, be made to the Commission informally; or

(ii) be made to the magistrate hearing the application for the function permit on behalf of the Commission, in which case the magistrate may grant the approval and shall cause the Commission to be notified of his decision;

but

(b) in any other case, shall be made to the Commission in the prescribed manner,

and shall, unless the Commission or the magistrate dispenses with the requirement, contained or be accompanied by such information as is prescribed and be supported by such further information as the Commission or magistrate may require.

(2) Premises may be approved by or on behalf of the Commission —

(a) specifically, to be used for the purposes of a specific function permit; or

(b) generally, to be used for the purposes of function permits from time to time; or

(c) in relation to a permit, or permits, of a continuing nature,

subject to such conditions as are specified in the instrument of approval (which may be the specific function permit), and may be approved for the purposes only of specified kinds of permitted gaming, and particulars of the approval (other than in relation to a specific function permit) shall be noted in the register together with particulars of the person who is for the time being the holder of that approval.

(3) The Commission may in relation to any premises require an applicant for the grant of approval or the holder of the approval to produce to the Commission —

(a) a report from the local government of the district in which the premises are situated, certifying that those premises conform, or if not conforming in what respect they do not conform, to the *Health (Miscellaneous Provisions) Act 1911*, to the relevant Act relating to sewerage and drainage and to any subsidiary legislation made under those Acts or the *Local Government Act 1995*; and

(b) a report from the authority responsible for local planning matters affecting the premises certifying —

(i) that the proposed or actual use does not contravene any written law relating to local planning; or

(ii) where a proposed use will not contravene such a written law only if a specified consent be given,

whether or not that consent will be given and as to any conditions relating to that consent;

and

(c) a report from the Commissioner of Police, or of an officer appointed by him with the approval of the Commission for that purpose, certifying that the premises are not in his opinion unsuitable for use as premises where permitted gaming of the kind proposed or to which the approval for the time being refers may occur; and

(d) evidence satisfactory to the Commission as to the charges proposed or made for the use of the premises for permitted gaming.

(4) Where the owner or occupier of any approved premises objects or changes, or for any other reason the Commission is satisfied that the circumstances so require, the Commission may in its discretion revoke its approval of the premises, or amend the conditions imposed in relation to any approval.

(5) The revocation, or amendment of the conditions imposed, shall take effect —

(a) on the day on which written notice of the decision of the Commission is given to the registered holder of the approval; or

(b) on such later day as is specified in that notice,

subject to subsection (6).

(6) Where for any reason notice of a decision of the Commission cannot in the opinion of the Commission be conveniently given to the registered holder of the approval in relation to any premises, that notice may in default be given to any person appearing to be an occupier of the premises and be posted in a conspicuous position on the premises, and effect shall thereupon be given to the revocation or amendment in accordance with the tenor of that notice.

(7) An approval of premises granted by the Commission subsists in favour of the holder to whom or which the approval was first granted, or an assignee acceptable to the Commission entered in the register as the registered holder of that approval, and until —

(a) the term for which it was granted expires; or

(b) its operation is suspended pursuant to an amendment; or

(c) it is revoked under subsection (4),

whichever is the sooner.

(8) Where the Commission proposes to revoke the approval granted in relation to any premises, or to amend the conditions imposed, the Commission shall take such steps as it considers reasonable in the circumstances to afford the registered holder of the approval and, where practicable, the owner and any other occupier who in the opinion of the Commission may be thereby prejudicially affected an opportunity to make submissions to the Commission in relation to the matter.

(9) Any assignment of the grant of approval by the registered holder proposed by him to the Commission shall not unreasonably be refused.

(10) Any assignment which is acceptable, and any revocation or amendment under this section shall be noted in the register.

[Section 55 amended: No. 14 of 1996 s. 4; No. 35 of 2003 s. 167; No. 38 of 2005 s. 15; No. 19 of 2016 s. 101.]

56. Renewing approvals, permits and certificates

(1) An application for the renewal, or where its operation is suspended the re-instatement, of an approval, a permit of a continuing nature or a certificate shall be made in writing as prescribed but need not, unless the Commission by notice in writing to the applicant so directs, contain or be accompanied by the information furnished at the time of the original application by that person in so far as that is stated to remain unaltered, but

shall be supported by such further or other information as the Commission may require.

(2) Subject to section 49(2), the application for the renewal or reinstatement of an approval, permit or certificate shall be dealt with at the discretion of the Commission as though it were an application for the grant of a new approval or for the issue of a new permit or certificate and, except where subsection (3) applies, the holding of an approval, permit or certificate does not confer any right of renewal.

(3) Where an application for renewal is duly made to the Commission and the Commission considers that the application can not be disposed of prior to the date on which the then current approval, permit or certificate will lapse, the Commission —

(a) may extend the operation of the then current approval, permit or certificate for such period as may be necessary for the application to be disposed of finally; and

(b) shall notify the applicant and amend the register accordingly.

57. Reports by permit holders, when required, content of etc.

(1) Where the Commission by notice in writing or a condition imposed in relation to a permit so requires, the permit holder shall, not later than the day required by the Commission, furnish to the Commission a report verified in such manner as the Commission may require by the permit holder, and in the case of a body of persons, corporate or unincorporate, also by 2 officers of that body other than the permit holder, being persons appointed by that body with the approval of the Commission for the purposes of this section, showing —

(a) the particular purpose or purposes to which proceeds of any gaming were applied, and the amount applied for that purpose, or for each of those purposes, as may be required; and

(b) each date and place at which gaming to which the permit purported to apply occurred; and

(c) the total amount of the proceeds of the permitted gaming; and

(d) the sums appropriated out of those proceeds on account of expenses, and on account of prizes, respectively,

and shall at that time, or subsequently, as the Commission requires, furnish such other information as to the permitted gaming or its conduct or as to moneys related thereto as the Commission may require, verified in such manner as the Commission may require.

(2) The Commission may require that any report under this section be verified by an independent auditor acceptable to, or appointed by, the Commission at the expense of the permit holder, but any such expense may be deducted as a proper expense in relation to the permitted gaming only where the auditor so certifies and the Commission consents.

(3) A person who or which furnishes in or in relation to a report required under subsection (1) information which is false or misleading in a material particular, or who verifies any such report knowing it to contain such information, commits an offence.

Penalty for this subsection: a fine of $100 000.

(4) A person who or which fails to give a report or information required under subsection (1) commits an offence.

Penalty for this subsection: a fine of $50 000.

[Section 57 amended: No. 35 of 2003 s. 167; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 54.]

58. Gaming permit may regulate use of proceeds from permitted gaming etc.

(1) A condition imposed in relation to a permit may require the permit holder —

(a) to give such publicity to the object of the permitted gaming as will be likely to bring it to the attention of persons participating in, or proposing to participate in, the permitted gaming; and

(b) subject to this section, to apply money accruing from or in relation to the permitted gaming, or a specified part of that money, only to the object of the permitted gaming.

(2) In this section ***object*** means the particular intention, or the activity, detailed in the application for the permit as that for which the proceeds of the permitted gaming are to be applied.

(3) Where a permit holder desires to apply moneys accruing from permitted gaming to which a condition of the kind referred to in subsection (1) applies for a purpose suggested by the permit holder other than the object detailed in the application, the Commission may at the request of the permit holder authorise the application of the money for that other purpose if the Commission is satisfied —

(a) that the object, in whole or in part —

(i) has been as far as may be fulfilled; or

(ii) cannot be carried out;

or

(b) that the object provides a use for part only of the money accruing from the permitted gaming; or

(c) that the money so accruing and other money applicable for similar purposes can be more effectively used in conjunction, and to that end can suitably be made applicable to common purposes; or

(d) that the object was specified by reference to an activity which was, when the object was specified, but has since ceased to be, an activity having some particular purpose, or by reference to a class of persons or to an object which has for any reason since ceased to be suitable; or

(e) that the object, in whole or in part, has since it was specified —

(i) been adequately provided for by other means; or

(ii) ceased in any other way to provide a suitable and effective method of using money accruing from the permitted gaming.

(4) Where the Commission authorises the application of money accruing from permitted gaming for a purpose other than the object of the permitted gaming the permit holder shall apply the money in the manner so authorised and not otherwise.

Penalty for this subsection: a fine of $50 000.

[Section 58 amended: No. 50 of 2003 s. 66(4); No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

59. Approvals etc. may require security to be given

(1) A condition imposed in relation to —

(a) the eligibility of any person to hold a permit; or

(b) the approval of a person as a nominee permit holder; or

(c) the approval of premises; or

(d) the issue of a permit or certificate,

may require that a person lodge with the Commission, within such time as the Commission may specify in the instrument imposing the condition or otherwise allow, security by way of a bond, in a form acceptable to the Commission and executed by an insurer acceptable to the Commission, conditioned upon the holder of the approval, permit or certificate paying, applying and accounting for, duly and according to law, moneys coming

into his hands by the operation of this Act and punctually complying with all duties and obligations imposed on him by law in relation to those moneys or any approved premises.

(1a) A bond referred to in subsection (1) shall provide that it enures during the term of the approval, permit or certificate for which it is originally given and may also provide that it enures during the term of any renewal granted to the same person.

(2) Any bond lodged with the Commission in relation to any approval, permit or certificate shall be applied by the Commission in such circumstances, for such purposes and in such manner as the Minister may direct, and may be discharged by the Commission as to the whole or any part.

(3) A judge may, on the application of the Commission and on being satisfied that any condition of the bond has been broken, assign the bond to the Commission or to any other person and the Commission or other person to whom the bond has been assigned is or the executors or administrators of the estate of that other person are, upon the assignment, entitled to sue upon the bond in his or their own name or names, as if the bond had, in the first instance, been given to him or them and also to receive, in trust for all persons interested, the full amount recoverable in respect of the breach of a condition of the bond.

(4) Where a bond enures in respect of the renewal or further renewal of an approval, a permit or a certificate, the insurer may by notice in writing given to the Commission determine its liability under the bond in respect of any act or default that may be done or made after the current approval or permit expires.

(5) If, by reason of non-payment of any premium, or any other act or omission of the holder of the approval, permit or certificate, a bond lodged with the Commission ceases to be in force during the term of the relevant approval, permit or certificate the approval, permit or certificate is deemed to have been revoked until another bond acceptable to the Commission is lodged.

(6) Where for any reason related to the insurer a bond lodged with the Commission ceases to be acceptable to the Commission, the approval, permit or certificate to which the bond relates may be amended by the Commission so that its operation is suspended until another bond acceptable to the Commission is lodged.

[Section 59 amended: No. 16 of 1990 s. 33.]

60. Revoking and amending permits and certain approvals

(1) Where the Commission is satisfied that the circumstances so require, the Commission, subject to section 62, may in its discretion —

(a) revoke its approval as to the eligibility of any person to hold a permit; or

(b) revoke its approval of a person as a nominee permit holder; or

(c) where a permit holder is a corporation and —

(i) a dealing with shares or any other interest in the corporation takes place; or

(ii) the corporation or its directors enter into a transaction or arrangement,

and in the opinion of the Commission the dealing, transaction or arrangement substantially affects the control of the corporation, revoke the permit; or

(d) revoke a permit or a certificate; or

(e) amend any such approval or permit or certificate.

(2) The revocation or amendment of an approval or a permit or a certificate pursuant to subsection (1) takes effect —

(a) on the day on which a notice of the revocation or amendment is given by the Commission to the holder of that approval or permit or certificate; or

(b) on such later day as is specified in the notice of revocation or amendment,

and the register shall be noted accordingly.

(3) Where notice is to be given pursuant to subsection (2) and service can not be effected within 7 days, a notice published for information in the *Gazette* setting out the relevant particulars of the notice to be given and of the day on which it was dated shall be taken to be sufficient service of a notice pursuant to subsection (2) for the purpose of any revocation or amendment of an approval or a permit or a certificate to which this section applies.

(4) The revocation or amendment of an approval or a permit or a certificate to which this section applies shall not be effected unless the Commission has taken reasonable steps to afford the holder of that approval or permit or certificate, and any other person or body likely to be affected, an opportunity to make submissions to the Commission in relation to the matter, unless the ground of revocation or amendment is a suspected offence under this Act.

(5) The Commission may by notice in writing require the holder of an approval or a permit or a certificate to which this section applies to return it to the Commission for the purpose of amendment.

(6) Where the Commission by notice requires that an approval or a permit or a certificate be returned to the Commission under subsection (5) and the approval or permit or certificate is not so returned within the time limited by the Commission in the notice, that approval or permit or certificate shall be deemed to have been revoked with effect from the day on which the notice was dated.

(7) The application of this section to the revocation of a certificate is subject to sections 88 and 92.

[Section 60 amended: No. 16 of 1990 s. 33; No. 24 of 1998 s. 52.]

*[**61.** Deleted: No. 16 of 1990 s. 33.]*

62. Revocation or amendment of current approval etc., Commission to report to Minister; appeals to Minister

(1) Where the Commission revokes or amends an approval, permit or certificate before the conclusion of the period for which it would otherwise have effect, the Commission, after having given an opportunity to the holder of the approval, permit or certificate to make submissions in relation to the matter and considered any submissions so made, shall make a report and recommendations to the Minister.

(2) A person aggrieved by a determination of the Commission —

(a) revoking; or

(b) refusing to renew; or

(c) amending,

an approval, permit or certificate may appeal by making a submission in writing in the prescribed manner to the Minister.

(3) The Minister may determine the matter on the substantial merits without regard to legal forms or technicalities and is not required to determine whether the information before him is in accordance with the law of evidence or not.

(4) The decision of the Minister shall be final and conclusive, is not subject to any further or other appeal, and shall not be questioned in any judicial proceedings.

(5) Where the holder of an approval, permit or certificate appeals to the Minister the approval, permit or certificate shall, subject to the payment of any fees then due and payable and subject to subsection (6), remain in force until the determination of the appeal.

(6) Subsection (5) does not apply in the case of an appeal against a determination of the Commission stated to have been made by reason of the conviction of the holder of the permit, approval or

certificate for an offence against this Act or any other written law relating to gambling.

[Section 62 amended: No. 35 of 2003 s. 166.]

63. No credit to be given to person for permitted gaming; cheques for permitted gaming

(1) Subject to subsection (2), where permitted gaming takes place, neither the permit holder nor any person acting on his behalf or under any arrangement with him shall make any loan or otherwise provide or allow to any person any credit, or release, or discharge on another person's behalf, the whole or part of any debt —

(a) for enabling any person to take part in permitted gaming; or

(b) in respect of any losses incurred by any person in permitted gaming.

(2) Neither the permit holder nor any person acting on his behalf or under any arrangement with him shall accept a cheque and give in exchange for it cash or tokens for enabling any person to take part in permitted gaming unless the following conditions are fulfilled, that is to say —

(a) the cheque is not a post-dated cheque; and

(b) it is exchanged for cash to an amount equal to the amount for which it is drawn, or is exchanged for tokens at the same rate as would apply if cash, to the amount for which the cheque is drawn, were given in exchange for them,

but, where those conditions are fulfilled, the giving of cash or tokens in exchange for a cheque shall not be taken to contravene subsection (1).

(3) Where the permit holder, or a person acting on behalf of or under any arrangement with him, accepts a cheque in exchange for cash or tokens to be used by a player in permitted gaming,

he shall not more than 2 banking days later cause the cheque to be delivered to a financial institution for payment or collection.

(4) In this section ***banking day*** means a day other than a bank holiday.

[Section 63 amended: No. 24 of 2000 s. 52.]

Division 2 — Social gambling

64. Social gambling defined

(1) This section does not, subject to subsection (3), apply to or in relation to —

(a) betting to which the *Betting Control Act 1954* applies; or

(b) any other gambling on the result of a race of any kind by horses, whether ridden or driven, or by greyhounds.

(2) Subject to subsection (1), gambling which —

(a) is spontaneous, notwithstanding that it may occur regularly, habitually or by arrangement between the persons involved; and

(b) is not promoted or conducted by or for the private gain of any person not participating in the gambling; and

(c) is so conducted that —

(i) no person is defrauded or cheated; and

(ii) no charge in money or money's worth (apart from any stakes hazarded or wagers placed) is made in respect of the gambling, and that no levy is charged on any of the stakes or wagers or on the winnings of any of the players, whether by way of direct payment, by deduction, or by any other means; and

(iii) no money or money's worth which any of the players puts down as stakes, or pays by way of losses, or exchanges for tokens used in playing

the game or wagering, is disposed of otherwise than by payment to a person participating in the gambling as winnings;

and

(d) is not conducted in circumstances that indicate that the mental, physical or moral welfare of any child under the age of 16 years is likely to be in jeopardy; and

(e) does not contravene the requirements of the person responsible for the premises where it occurs; and

(f) is not —

(i) two-up; or

(ii) a game of a kind which by the operation of section 46(2) is not capable of being authorised by way of permitted gaming; or

(iii) prescribed as a game in respect to which social gambling is prohibited;

and

(g) being gaming, by the nature of the game is such that the chances in the game —

(i) are equally favourable to all the players; or

(ii) lie between the player and some other person, or (if there are 2 or more players) lie wholly or partly between the players and some other person, and those chances are as favourable to the player or players as they are to that other person,

shall be taken to constitute social gambling and is not unlawful.

(3) The making of a bet within the meaning of the *Betting Control Act 1954* by a person with another person, neither being a person who —

(a) holds a current licence as a bookmaker under that Act; or

(b) by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates wagers or who, whether occasionally or regularly, carries on the business of receiving or negotiating wagers; or

(c) is employed by or acts on behalf of a person of the kind referred to in paragraph (a) or paragraph (b),

shall be taken to constitute social gambling and is not unlawful.

(4) The conduct of, or participation in, a lottery on the result of a race of any kind by a person or persons, not being a person or persons of a kind referred to in subsection (3)(a), (b) or (c), on or in the week preceding the day on which that race occurs, not being a lottery conducted for the purposes of private gain or any commercial undertaking, shall be taken to constitute social gambling and is not unlawful.

(5) For the purposes of this section, a payment which constitutes payment of, or of a periodic instalment of, an annual membership subscription to a body of persons, or which constitutes payment of an entrance subscription for membership of such body, shall not be taken to be a charge made in respect of gambling occurring at premises conducted by that body so long as the gambling is not conducted by or on behalf of that body.

(6) Where in any other written law a reference to gambling, gaming or wagering, or to betting, is construed as a reference to gambling, gaming, wagering or betting that is unlawful that reference shall be taken not to refer to social gambling.

[Section 64 amended: No. 24 of 1998 s. 53; No. 35 of 2003 s. 150 and 166.]

[Division 3 (s. 65-79) deleted: No. 16 of 1990 s. 31.]

Division 4 — Permitted two-up

80. Two-up at country race meetings

(1) Where persons play or conduct gaming at the game known as two-up, and that game and the conduct of gaming associated with that game —

(a) takes place —

(i) at or in the vicinity of a racecourse or track under the control of a country race club; and

(ii) during the course of the day and, if subsection (1a) applies, the day after the day on which a race meeting licensed by RWWA under the RWWA Act or the *Racing Restriction Act 2003* is held on that racecourse or track under the management of that club;

and

(b) is conducted —

(i) by or on behalf of the country race club, by a person authorised in writing by the committee of that club for the purpose; and

(ii) otherwise than during the racing for that day; and

(iii) in the manner in which the game two-up is customarily conducted in that locality of the State, whether with coins or dice; and

(iiia) not for the purposes of private gain or any commercial undertaking; and

(iv) pursuant to, and in all respects in accordance with, a permit issued under section 51 to an approved nominee permit holder on behalf of that country race club pursuant to an application made by the club specifically seeking a permit to conduct gaming to which this section applies;

and

(c) does not contravene any condition —

(i) specifically imposed in respect of that permit; or

(ii) implied by section 82 or otherwise prescribed under this Act,

it shall be taken to constitute permitted two-up and is not unlawful.

(1a) Subject to subsection (1b), a permit issued under section 51 that authorises playing or the conduct of gaming at the game known as two-up to take place during the course of the day on which a race meeting is held (***race day***) may also authorise playing or gaming at that game to continue, for the period specified in the permit, into the day after race day.

(1b) A permit that authorises playing or gaming at the game known as two-up to continue into the day after race day ceases to have effect if playing or gaming at that game does not begin during race day.

(2) A reference in this section to a country race club is a reference to a club which is not a club situate inside a radius in any direction of 100 km of the Burswood Casino as referred to in the *Casino (Burswood Island) Agreement Act 1985*.

[Section 80 amended: No. 24 of 1998 s. 54; No. 35 of 2003 s. 151; No. 25 of 2011 s. 9.]

81. Two-up at other places

(1) Where persons play or conduct gaming at the game known as two-up, and that game and the gaming associated with that game —

(a) takes place at approved premises, not being a place situate inside a radius in any direction of 100 km of the Burswood Casino as referred to in the *Casino (Burswood Island) Agreement Act 1985*; and

(b) is conducted —

(i) in the manner in which the game two-up is customarily conducted in that locality of the State, whether with coins or dice; and

(ia) not for the purposes of private gain or any commercial undertaking; and

(ii) pursuant to, and in all respects in accordance with, a permit issued under section 51 to, or to a nominee permit holder on behalf of, a person who has made an application specifically seeking a permit to conduct gaming to which this section applies;

and

(c) does not contravene any condition —

(i) specifically imposed in respect of that permit; or

(ii) implied by section 82 or otherwise prescribed under this Act,

it shall be taken to constitute permitted two-up and is not unlawful.

(2) For the purposes of section 51(2)(b) the Commission may have regard to the recreational and social aspects of any proposed gaming to which this section applies and —

(a) is not required to be satisfied that the principal object of the proposed gaming is the raising of moneys for any activity or, except where the gaming purports to be conducted for the benefit of any activity or any charitable or other particular object, as to the use to which any proceeds are to be put; and

(b) the gaming shall not be taken to be conducted for the purposes of private gain by reason only that the

ringkeeper on behalf of the operator takes a customary commission, not exceeding 10%, of —

(i) all winnings from the spinner, after the spinner has withdrawn; and

(ii) the winnings of players who have placed their stakes through the ringkeeper and who win on heads (or the equivalent where dice are used),

unless the taking of a commission is prohibited or restricted by a condition imposed in respect of the permit.

[(3) deleted]

[Section 81 amended: No. 24 of 1998 s. 55; No. 35 of 2003 s. 152 and 167; No. 25 of 2011 s. 10; No. 41 of 2018 s. 20.]

82. Conditions deemed in certain permits

The following implied conditions shall be deemed to have been imposed in respect of every permit to which this Division applies —

(a) access to any land or premises used for the purposes of the gaming shall at all times be permitted to any member of the Police Force; and

(b) a person who is —

(i) under the age of 18 years; or

(ii) under the apparent influence of alcohol or drugs, or alcohol and drugs,

shall not be, or be permitted to be, in any area designated in the permit as to be prohibited to such persons,

and such a condition is not required to be noted on the permit or in the register.

[Section 82 amended: No. 24 of 1998 s. 56; No. 35 of 2003 s. 153.]

83. Regulations for this Division

Regulations made for the purposes of this Division may make provision —

(a) in respect of fees or charges in relation to the application for, operation of, or renewal of any permit to which this Division applies; and

(b) as to conditions to be imposed in respect of such a permit, the manner of making the application to the Commission or in the case of a function permit to a magistrate, the period and the hours during which the permit is to have effect, and the conduct and supervision of the gaming; and

(c) for the immediate suspension of the operation of a permit in prescribed circumstances; and

(d) requiring the furnishing of information as to the operation of any gaming conducted pursuant to a permit to which this Division applies; and

(e) for the creation of offences and prescribed penalties, in relation to the operation of any such permit or the conduct of gaming thereby authorised; and

(f) generally, in relation to the conduct of the game of two-up.

[Section 83 amended: No. 35 of 2003 s. 154 and 167.]

Division 5 — Gaming machines and other gaming equipment and its operation

84. Terms used

(1) In this Division —

gaming machine means a machine which —

(a) is constructed, adapted or used for playing a game of chance by means of that gaming machine; and

(b) a player pays (except where he has an opportunity to play without payment as the result of having previously played successfully) to play —

(i) by inserting money, or money's worth in the form of a token; or

(ii) in some other way;

and

(c) by the chances inherent in the action of the machine, determines the outcome of the game,

whether or not provision is made for the manipulation of the machine by a player;

prescribed gaming equipment means —

(a) gaming machines or slot machines; and

(b) any other machine or other thing used in the course of, or in relation to, gaming,

of a kind named or described in regulations made for the purposes of section 88;

slot machine means a machine that is constructed or adapted and used —

(a) for the playing of music or of games designed primarily for amusement, relaxation or education; or

(b) for the playing of games of skill; or

(c) so that although a game of chance may be played, section 39(2)(e) applies; or

(d) to yield with certainty previously ascertained goods of which the sale, or exposure for sale, is not prohibited by any written law; or

(e) to dispense tickets, having a previously ascertained face value, in a lottery conducted under and in accordance with the requirements of a written law,

without affording any other consideration, advantage or reward and not for the purposes of wagering;

unlawful gaming equipment means gaming equipment of a kind the use or possession of which contravenes, or in the circumstances in which it is found contravenes, a prohibition proclaimed under section 85(2), or an unlawful gaming machine; and

unlawful gaming machine means a machine of a kind referred to in section 85(1)(a) or (b).

[Section 84 amended: No. 24 of 1998 s. 57; No. 35 of 2003 s. 155 and 167.]

85. Unlawful gaming machines etc., use and possession of prohibited

(1) The conduct of gaming by means of, or the playing of games using or the making of wagers by reference to —

(a) any gaming machine (not being a video machine authorised for use in a licensed casino pursuant to the *Casino Control Act 1984* or a machine used in accordance with a permit or written law) of the kind generally known or described as a poker machine, fruit machine or roulette machine or any machine in the nature of or similar to a machine of that kind including a video machine that reproduces in a form suitable for playing by means of the video machine any kind of game —

(i) that is declared to be an authorised game under section 22 of the *Casino Control Act 1984* to be played in a licensed casino; or

(ii) that, although not so declared, is commonly played in casinos (whether in Australia or elsewhere); or

(iii) that is a variation or derivative of a game referred to in subparagraph (i) or (ii);

or

(b) any other gaming machine, not being a machine used —

(i) as a slot machine; or

(ii) in accordance with a permit or written law;

or

(c) gaming equipment of a kind which contravenes, or in the circumstances in which it is found contravenes, a prohibition proclaimed under subsection (2),

is prohibited and constitutes unlawful gaming, and a game played with that gaming equipment or in relation to which it is used shall for the purposes of section 42(2) be deemed to be an unlawful game.

(2) On the recommendation of the Commission, where the Governor is satisfied that the use of any kind of gaming equipment may be undesirable, in the public interest or otherwise, he may by proclamation prohibit the use of gaming equipment of that kind in relation to gambling generally or in accordance with the tenor of the proclamation and may prohibit possession of any such gaming equipment.

(3) An authorised officer or member of the Police Force finding anything that he has reasonable grounds to suspect may be an unlawful gaming machine, or be a kind of gaming equipment the use or possession of which may contravene, or in the circumstances in which it is found may contravene, a prohibition proclaimed under subsection (2), may —

(a) require the person having the machine or other gaming equipment in his possession to permit it to be examined on behalf of the Commission, and may require that person to take all such steps as may be reasonably necessary to facilitate that examination; and

(b) where he is satisfied that the thing is unlawful gaming equipment that the person is not entitled to possess under this Act, or if the person fails to comply with a

requirement made of him under paragraph (a), seize and take away that gaming equipment and cause or permit it to be examined, using such force as may be necessary, on behalf of the Commission, and sections 31 and 32 shall have effect in relation to the thing so seized and any money or tokens found therein.

(4) Subject to subsections (5) and (6A), a person having in his possession —

(a) an unlawful gaming machine; or

(b) any other gaming equipment that contravenes, or in circumstances that contravene, a prohibition proclaimed under subsection (2),

commits an offence.

Penalty for this subsection: a fine of $100 000.

(5) Subsection (4) does not apply to an authorised person having possession of a gaming machine or gaming equipment of a kind referred to in that subsection —

(a) for the purpose of testing, examining, maintaining or repairing the gaming machine or gaming equipment, or for any purpose approved by the Commission; or

(b) in connection with the manufacture of gaming machines or gaming equipment.

(6A) Subsection (4) does not apply to the possession of a gaming machine or gaming equipment of a kind referred to in that subsection, in prescribed circumstances.

(6) In subsection (5) —

authorised person means the Commission or a person authorised in writing by the Commission.

[Section 85 amended: No. 24 of 1998 s. 58; No. 6 of 2000 s. 11; No. 35 of 2003 s. 156 and 166; No. 25 of 2011 s. 11; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 55.]

86. Use of unlawful cash or tokens in gaming machines

A person who inserts, or attempts to insert, in any gaming machine or slot machine of which the use or possession is lawful anything other than —

(a) money issued under the authority of a law of the Commonwealth; or

(b) a token provided by the operator of the machine for use in a machine of that kind,

commits an offence.

Penalty: a fine of $2 500.

[Section 86 amended: No. 41 of 2018 s. 25(2); No. 53 of 2024 s. 71.]

87. Records about gaming equipment, powers to require keeping of

(1) Regulations made under this Act or a permit authorising the conduct of gaming by means of gaming equipment, whether or not prescribed gaming equipment, may impose conditions requiring a person to make, and to retain during a specified period, such records and accounts as may be specified, and to furnish the Commission with such report or information as is specified, in relation to —

(a) any payments made in respect of the equipment, whether by way of rent, maintenance charges or otherwise; and

(b) any money or tokens inserted into a gaming machine or otherwise hazarded in relation to gaming to which the equipment relates; and

(c) any money or tokens removed from a gaming machine, or otherwise received in relation to gaming to which the equipment relates, other than money or tokens delivered as prizes.

(2) In this section, ***specified*** means specified in the regulations or the relevant permit.

88. Prescribed gaming equipment, regulations about, certificates for sellers etc. of

(1) Regulations made under this Act may prohibit, or impose conditions in relation to —

(a) the sale, supply, maintenance or repair of prescribed gaming equipment; and

(b) the use or possession of prescribed gaming equipment; and

(c) the sale or supply of tokens for use in prescribed gaming equipment.

(2) The regulations, or a permit authorising the conduct of gaming by means of gaming equipment, may impose conditions in relation to the operation of the prescribed gaming equipment, including conditions —

(a) that a gaming machine shall not be a machine which, in accordance with the way in which the machine is constructed, adapted or for the time being regulated, is designed to pay out less than a prescribed percentage of the aggregate value of the money or money's worth paid by or on behalf of a player in order to play one or more games by means of the machine; and

(b) that play shall not take place using the gaming equipment unless the equipment is operated by a person approved by the Commission; and

(c) that a statement as to the value or nature of the prizes that can be won be displayed in a prescribed manner; and

(d) that no person who is not approved by the Commission for the purpose shall remove from any gaming machine any money, other than any money delivered by the

machine as, or as part of, a prize in respect of a game played by means of the machine.

(3) A person shall not —

(a) as principal, or as a servant or agent, sell or supply any gaming equipment otherwise than in circumstances to which subsection (4) applies; or

(b) as principal undertake for valuable consideration, or cause or permit another person to enter into such an undertaking on his behalf, to maintain the mechanism of any gaming equipment,

being prescribed gaming equipment to which this subsection is by the regulations applied, unless the person so acting —

(c) being a principal is the holder of a relevant and current certificate issued under this section by the Commission; or

(d) being a servant or agent of another person, sells or supplies the gaming equipment on behalf of a person who is the holder of such a certificate.

Penalty for this subsection: a fine of $100 000.

(4) Subsection (3)(a) does not apply —

(a) to the sale of gaming equipment of any particular class or kind to a person who carries on a business which consists of or includes selling or supplying gaming equipment of that class or kind; or

(b) to the sale or supply of gaming equipment to a person who at no time has possession of the equipment and becomes the owner of it only for the purpose of arranging financial accommodation for another person to permit that other person to purchase or be supplied with the equipment; or

(c) to the sale or supply of inoperable gaming equipment as scrap; or

(d) to any transaction whereby approved premises in which the gaming equipment is installed are sold or let and the equipment is sold or supplied to a purchaser or tenant, who is an assignee acceptable to the Commission in relation to the approval of those premises, as part of the fixtures and fittings of those premises.

(5) A certificate for the purposes of this section may be issued by the Commission on payment of the prescribed fee to any person who satisfies the Commission that he is competent and a fit and proper person to perform the operation to which the certificate relates, and shall have effect —

(a) in relation to the gaming equipment or gaming equipment of the kind therein specified in the circumstances so specified; or

(b) in relation to —

(i) the gaming equipment, or gaming equipment of the kind; and

(ii) the period, not being a period in excess of 5 years; and

(iii) the operations as to sale or supply, or as to maintenance of the mechanism of the respective kinds of gaming equipment,

therein specified,

and is renewable, but may be revoked at the discretion of the Commission pursuant to subsection (6).

(6) A certificate may be revoked by the Commission by notice in writing given to the holder at the address specified in the certificate, as from the end of a period (of not less than 7 days from the date of service of the notice) as specified in that notice, and the revocation takes effect at the end of that period.

(7) In determining whether a person is competent and a fit and proper person to perform relevant operations regard shall be had

in particular to the way in which business is conducted by him and by persons employed by him or acting on his behalf.

(8) A person shall not be taken to be a fit and proper person to perform relevant operations if those operations are, or if the certificate in question were issued or renewed would be, performed by him as servant or agent of, or otherwise for the benefit of, a person who would himself be refused a certificate as not being a fit and proper person to perform those operations.

[Section 88 amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

89. Prescribed gaming equipment, sale etc. of

(1) Regulations made under this Act may impose conditions with respect to the terms on which prescribed gaming equipment may be sold, supplied or maintained.

(2) A person who sells or supplies, or undertakes to maintain, prescribed gaming equipment on terms which —

(a) are in any way dependent upon; or

(b) provide for any calculation by reference to,

the extent to which, or manner in which, that equipment, or any other gaming equipment whether or not prescribed gaming equipment, is used commits an offence.

Penalty for this subsection: a fine of $100 000.

(3) In this section ***terms*** includes any condition as to price, rent or any other payment.

[Section 89 amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

90. Application of s. 88 and 89 to concessionaires

For the purposes of sections 88 and 89 a person who, in pursuance of any concession, licence or other right granted to him, places gaming equipment, or causes gaming equipment to

be placed, on premises which are not in his occupation shall be treated as supplying the gaming equipment at the time when it is placed on those premises.

91. Permitted gaming, restrictions on certain people in relation to

(1) Where this Act, regulations made under this Act or the conditions of a permit specify that this subsection shall apply in relation to any permitted gaming a person shall not, pursuant to any service agreement, perform an operation of a kind referred to in subsection (2) unless there is in force a relevant certificate issued by the Commission under section 92 for the purposes of this subsection certifying that he has satisfied the Commission as to his competence and fitness to perform that operation, or that operation in the circumstances or on the premises, as the certificate may specify.

Penalty for this subsection: a fine of $20 000.

(2) Subsection (1) applies to any operation which is performed in relation to the permitted gaming and consists of —

(a) taking part in the gaming as a participant; or

(b) assisting the conduct of permitted gaming by operating or handling any gaming equipment or instruments of gaming or, in the case of bingo, by calling the card or otherwise; or

(c) issuing, receiving or recording cash or tokens used in the gaming, or cheques given in respect of any such cash or tokens or in respect of sums won or lost in the gaming; or

(d) watching, otherwise than as manager, organiser or supervisor —

(i) the gaming; or

(ii) the performance by any person in pursuance of a service agreement of any operation of a kind referred to in this subsection.

(3) In relation to any approved premises or permit of a continuing nature, the Commission may serve a notice on any person conducting permitted gaming at those premises or to which the permit relates, or who appears to the Commission to be concerned in the conduct of such permitted gaming or to perform, pursuant to a service agreement, an operation of a kind referred to in subsection (2) in relation to that permitted gaming, requiring the person on whom the notice is served, before the end of the period (of not less than 21 days from the date of service of the notice) as specified in that notice, to obtain the approval of the Commission to his acting or continuing to act in relation to such permitted gaming in that capacity.

(4) After the end of the period specified in a notice served under subsection (3), the person on whom the notice is served shall not act in relation to permitted gaming to which the notice refers in a capacity to which the notice refers unless there is in force a relevant certificate issued by the Commission for the purposes of this subsection certifying that he has been approved by the Commission for acting in that capacity in relation to that permitted gaming.

Penalty for this subsection: a fine of $20 000.

(5) In this section ***service agreement*** means any contract of service or for training, or any other contract, employment or arrangement for the rendering of services of a kind to which subsection (2) refers for hire or reward.

(6) This Act, regulations made under this Act, or a condition imposed in respect of any permitted gaming may provide that the gaming shall be deemed not to be lawfully conducted unless the person performing an operation specified in relation to that permitted gaming is a person who is the holder of a relevant and current certificate issued under section 92 for the purposes of this subsection.

(7) In determining whether to issue a certificate for the purposes of subsection (6) the Commission shall have regard only to the

question whether, in their opinion, the applicant is a fit and proper person and likely to be capable of, and diligent in, securing that this Act will not be contravened and that any gaming conducted by him will be conducted fairly and properly.

(8) In subsection (6), ***specified*** means specified in the provision of this Act or of the regulations, or in the condition, by which the gaming is deemed not to be lawfully conducted unless that operation is performed by the holder of such a certificate.

[Section 91 amended: No. 35 of 2003 s. 167; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

92. Certificates for s. 91

(1) A certificate for any of the purposes of section 91 may be issued by the Commission on payment of the prescribed fee and, subject to subsection (3), is revocable at the discretion of the Commission.

(2) A certificate for any of the purposes of section 91 may be issued so as to have effect —

(a) in relation to the permitted gaming, the capacity, and the premises therein specified for the duration of the function permit therein specified; or

(b) in relation to the kind of gaming, or gaming equipment, operation or capacity, or premises or circumstances specified in the certificate until the expiry of the period therein specified or the certificate is revoked by the Commission.

(3) A certificate may be revoked by the Commission by notice in writing given to the holder at the address specified in the certificate —

(a) unless paragraph (b) applies, as from the end of a period (of not less than 21 days from the date of service of the notice) as specified in that notice, the revocation taking effect at the end of that period; or

(b) where the determination of the Commission is stated in the notice to have been made by reason of the conviction of the holder of the certificate for an offence against this Act or any other written law relating to gambling, with effect from the day on which the notice was dated.

[Section 92 amended: No. 35 of 2003 s. 166 and 167.]

93. Offences in relation to s. 91

Where section 91, or any regulation made under this Act in respect to the conduct of gaming in relation to which that section applies, is contravened in relation to any permitted gaming —

(a) the holder of the permit relating to that gaming; and

(b) the registered holder of any approval in relation to premises at which the contravention occurred; and

(c) any other person knowingly concerned in the contravention,

commits an offence.

Penalty: a fine of $20 000.

[Section 93 amended: No. 35 of 2003 s. 167; No. 41 of 2018 s. 25(2); No. 53 of 2024 s. 71.]

Division 5A — Remote gambling devices

[Heading inserted: No. 41 of 2018 s. 21.]

93A. Terms used

In this Division —

public premises means premises in a public place, except —

(a) premises comprising a totalisator agency as defined in the *Racing and Wagering Western Australia Act 2003* section 3(1); or

(b) premises established by the Commission as defined in the *Lotteries Commission Act 1990* section 3(1) for or in connection with the performance of the Commission's functions under that Act; or

(c) prescribed premises or a prescribed class of premises;

remote gambling device means a telecommunications device that is primarily or exclusively built to transmit a bet on an event or contingency.

[Section 93A inserted: No. 41 of 2018 s. 21.]

93B. Offences relating to remote gambling devices

(1) A person who places a remote gambling device on public premises commits an offence.

Penalty for this subsection: a fine of $100 000.

(2) A person who uses a remote gambling device on public premises commits an offence.

Penalty for this subsection: a fine of $5 000.

(3) An owner or occupier of public premises commits an offence if the owner or occupier permits a remote gambling device to be placed or used on the premises.

Penalty for this subsection: a fine of $100 000.

[Section 93B inserted: No. 41 of 2018 s. 21; amended: No. 53 of 2024 s. 71.]

Division 6 — Permitted bingo

94. Terms used

(1) In this Division, unless the contrary intention appears —

bingo means the game commonly known as bingo, housie-housie or tombola and includes any version of that game by whatever name called;

charitable organisation means an organisation which in the opinion of the Commission has for an object or one of its principal objects the raising of money for charitable purposes, or for the promotion and advancement of social welfare, including public recreation or sport;

club includes any society, institution, organisation, association or other body of persons, by whatever name called, and any separate branch or section of such society, institution, organisation, association or body but a branch or section shall not be treated as a separate branch or section unless it occupies separate premises;

money includes any token, voucher or other thing given by a player in exchange for cards and recognised for the purposes of the exchange to represent a particular sum of money, or money's worth;

multiple bingo means bingo to which section 96 refers;

organiser, in relation to a game of bingo, means the person having the management of the game on behalf of the permit holder in respect of the premises on which the game is played, and in respect of multiple or simultaneous bingo, the person having the central management of the game;

prize means anything won or to be won at bingo, whether money or something else having a value, and ***value*** and ***paid*** in relation to prizes shall be construed accordingly;

promoter, in relation to bingo, means the person to whom the players look for the payment of prizes;

simultaneous bingo means bingo to which section 97 refers.

(2) For the purposes of this Division, a player's ***cards*** are the sets of numbers or symbols (in whatever form or layout) with which he plays bingo, matching them against calls made by the house; and a player pays for a card when he gives money in exchange for, or for the use of, a particular card, whether it is appropriated to a particular game or can be appropriated by the player to a game of his choice.

95. Permits to conduct bingo; who may play permitted bingo

(1) Where the Commission is satisfied that it is not to be conducted for the purposes of private gain or any commercial undertaking, a permit authorising the conduct of bingo may be issued —

(a) to have effect for a period of 6 months from the date of issue, without specifying the dates on which play may take place, where the bingo is conducted by or on behalf of an approved bingo club; or

(b) as a permit of a continuing nature, subject to the condition that play takes place on the days and at the times authorised by that permit and not otherwise; or

(c) as a function permit.

(2) A permit to which subsection (1)(a) applies shall not be issued unless the Commission is satisfied that —

(a) the club seeking the issue of the permit is comprised wholly or mainly of persons who are senior citizens or pensioners, and guests participating in the play will be persons of a like kind; or

(b) the club constitutes, or will conduct the bingo on behalf of, a charitable organisation.

(3) A permit under this Division issued to an approved nominee on behalf of a club shall, unless the Commission otherwise specifies, be issued subject to the implied condition (which need not be specified in the permit or entered in the register) that no person shall participate in the gaming unless either —

(a) he is a member of the club and there has been an interval of at least 48 hours between the time when he applied or was nominated for membership of the club and the time when he begins to take part in the gaming; or

(b) he is a *bona fide* guest of a person who is a member of the club,

and for the purposes of paragraph (b) a person shall be taken not to be a *bona fide* guest if he himself makes any payment

required for enabling him to obtain access to the premises, or to a part of them which is a part in which the gaming takes place, or if (apart from any stakes hazarded and the payment of any losses incurred by him in the gaming) he makes any payment in money or money's worth in respect of the gaming.

(4) A person shall not participate in the gaming under this Division —

(a) if, unless section 96(1) or 97(1) applies or a permit otherwise provides, he is not present on the premises at the time when the gaming takes place there; or

(b) on behalf of another person who is not present on the premises at that time.

Penalty for this subsection: a fine of $1 000.

[Section 95 amended: No. 24 of 1998 s. 59; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

96. Multiple bingo

(1) For the purposes of the game of multiple bingo, a person may be regarded as present on the premises where the game is being played and at the time when it is being played there if he is present at any one of the premises on which it is being played at the time when it is being played on those premises.

(2) Where multiple bingo is played —

(a) the aggregate amount paid to players as prizes in respect of the game shall not exceed 60%, or such other proportion as may be prescribed, of the aggregate amount of the stakes hazarded by the players in playing that game; and

(b) the amount of any such prize shall not exceed the prescribed amount or such other sum as may be specified in a condition imposed in respect of the permit authorising the gaming; and

(c) unless the organiser is a person who is the holder of a certificate issued by the Commission for the purpose of the operations performed by him, section 91(6) applies.

(3) A person who —

(a) performs any operations as an organiser of a game purporting to be multiple bingo, not being the holder of a certificate issued to him for the purposes of section 91(6) in respect of that operation; or

(b) conducts a game purporting to be multiple bingo otherwise than in accordance with subsections (2) and (4),

commits an offence.

Penalty for this subsection: a fine of $20 000.

(4) In this section —

multiple bingo means a game of bingo played jointly on different bingo club premises in circumstances where —

(a) the draw is determined before the beginning of the game by the organiser of the game and announced on each of those premises while the game is being played there; and

(b) the game is played on each of those premises within a specified period which begins and ends at the same time for all of them; and

(c) each player competes for a prize calculated by reference to the stakes hazarded at all those premises and also for either or both of the following —

(i) a prize calculated by reference to the stakes hazarded at a group of those premises which includes the premises on which he is taking part in the game; and

(ii) a prize calculated by reference to the stakes hazarded at the last-mentioned premises.

[Section 96 amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

97. Simultaneous bingo

(1) Where a game of bingo is played simultaneously on different premises in circumstances where —

(a) all the players take part in the same game at the same time and all are present at that time on one or other of those premises; and

(b) the draw takes place on one or other of those premises while the game is being played; and

(c) any claim of one of the players to have won is indicated to all the other players before the next number is called,

then, for the purposes of section 95(4), those different premises shall be deemed to have been the same premises.

(2) Where games of bingo are played simultaneously —

(a) the aggregate amount paid to players as winnings in respect of that game shall not exceed 60%, or such other proportion as may be prescribed, of the aggregate amount of the stakes hazarded by the players in playing that game; and

(b) the amount of any prize paid shall not exceed the prescribed amount or such other sum as may be specified in a condition imposed in respect of the permit authorising the gaming; and

(c) unless the organiser is a person who is the holder of a certificate issued by the Commission for the purpose of the operations performed by him, section 91(6) applies.

(3) A person who —

(a) performs any operation as an organiser of a game purporting to be simultaneous bingo, not being the

holder of a certificate issued for the purposes of section 91(6) in respect of that operation; or

(b) conducts a game purporting to be simultaneous bingo otherwise than in accordance with subsections (1) and (2),

commits an offence.

Penalty for this subsection: a fine of $20 000.

[Section 97 amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

98. Conduct of bingo

A person shall not —

(a) conduct multiple bingo or simultaneous bingo, otherwise than in accordance with a permit specifically authorising the playing of that version of bingo; or

(b) as promoter, offer any jackpot prize in relation to bingo, except in so far as may be authorised specifically by a permit relating to multiple bingo or simultaneous bingo; or

(c) for hire or reward, by way of calling or spotting on behalf of the house or otherwise, assist in the conduct of bingo, unless that person is the holder of a certificate issued by the Commission pursuant to section 91(1) in respect of that operation.

Penalty: a fine of $20 000.

[Section 98 amended: No. 41 of 2018 s. 25(2); No. 53 of 2024 s. 71.]

99. Recovering moneys payable to Commission for bingo

Where any moneys are payable to the Commission in relation to a permit authorising the playing of a game of bingo, those

moneys shall be recoverable jointly and severally from all or any of the following persons —

(a) the permit holder; and

(b) the promoter, and any person who took money as payment by players for cards or paid prizes to players; and

(c) the organiser, and any person who was responsible for the management of the premises on which the gaming took place; and

(d) where a body of persons would be liable, any person who, if that body committed an offence of failing to pay those moneys on demand, would be criminally liable in accordance with section 37 of this Act.

[Section 99 amended: No. 9 of 2023 s. 81.]

100. Regulations as to bingo

Regulations may be made under this Act with respect to the conduct of games of bingo and in particular with respect to the following matters —

(a) the number of games that may be played on any premises in any period of 24 hours; and

(b) the period for the playing of a game; and

(c) the hours during which gaming is permitted to take place; and

(d) the amount of the stakes; and

(e) the method of calculating the value or amount of the prizes; and

(f) the functions of the organiser of the game and of the persons conducting the game, including a requirement that any such person be the holder of a relevant certificate issued under section 92; and

(g) requiring the display, in such manner and in such positions on the premises as may be prescribed, of the

rules in accordance with which any game is to be played on the premises, either generally or in any particular circumstances; and

(h) requiring a promoter to ensure that, before the beginning of any game of bingo promoted by him, the value of any prize to be won in the game is made known to the players in accordance with such requirements as may be prescribed; and

(j) the keeping and retention of accounting records, and as to the production, verification and examination of books relating to the gaming or to the prizes and money involved; and

(k) requiring the provision of security, by way of deposit or otherwise, for any moneys due to the Commission for which a person is, or may become, liable; and

(l) authorising the Commission —

(i) to waive, in a particular case or class of cases, moneys that would otherwise be payable to the Commission; or

(ii) to refund in whole or in part, in a particular case or class of cases, moneys paid to the Commission,

under this Division; and

(m) requiring that in relation to gaming conducted under the authority of a permit in circumstances to which section 95(2) refers, at least 2 persons appointed by the club and acceptable to the Commission are present during the gaming to ensure that it is fairly and properly conducted; and

(n) the printing, sale, use and call back of cards; and

(na) the persons —

(i) who may be given cards without payment; or

(ii) who shall not be given cards without payment;

and

(p) the provision and award of prizes; and

(q) as to the fees or other moneys payable to the Commission in respect of the gaming, and for the administration of the assessment and enforcement of the payment of such moneys.

[Section 100 amended: No. 24 of 1998 s. 60.]

Division 7 — Lotteries, and amusements with prizes etc.

101. Terms used

(1) In this Division —

batch, in relation to tickets in a continuing lottery, means a number of tickets that have the same series number and are distinguishable from the tickets in any other batch;

closing date, in relation to a standard lottery, means the last date on which tickets may be sold or subscriptions received from entrants to the standard lottery;

compliant guarantee means a guarantee that is —

(a) in a form acceptable to the Commission; and

(b) issued by an authorised deposit-taking institution as defined in the *Banking Act 1959* (Commonwealth) section 5(1);

conducting, in relation to an unlawful lottery, includes any matter referred to in section 106(2);

continuing lottery means a continuing lottery within the meaning of subsection (2);

date of drawing, in relation to a standard lottery, means the date fixed for the drawing of, or deciding the result of the standard lottery;

drawing, in relation to a standard lottery, means the determination of the event or events which, according to the conditions of the standard lottery, decide the result;

face value, in relation to a ticket intended to be sold in a continuing lottery, means the amount for which the ticket is intended to be sold to a person taking part in the lottery;

foreign lottery means a lottery which is conducted, drawn or decided wholly or partly outside Australia, notwithstanding that the same may be legal according to the law of the place where it is conducted, drawn, or decided;

opening date, in relation to a standard lottery, means the first day on which tickets in the standard lottery may be sold or on which subscriptions in the standard lottery may be received;

prize winner, in relation to a standard lottery, means a person who wins a prize in the lottery;

quarter means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April;

relevant body, in relation to a permit holder, has the meaning given in section 104AB(2);

standard lottery means a lottery other than a continuing lottery;

ticket, in relation to a continuing lottery, means a ticket that is intended for sale in a continuing lottery;

ticket, in relation to a standard lottery, includes any document evidencing the claim of a person to participate in the chances of the lottery;

ticket holder, in relation to a standard lottery, means a person who has paid the whole price of a ticket, chance or subscription in the lottery;

unlawful lottery means a lottery declared by section 102 to be unlawful, and includes a foreign lottery conducted in the State.

(2) A continuing lottery is a lottery in which the holders of tickets expose certain amounts or pictures or figures, letters, or other symbols that were printed on the tickets and were concealed at

the time when the holders obtained the tickets in order to ascertain whether or not the presentation by them of the tickets to the person conducting the lottery will entitle them, subject to this Act and the terms and conditions, if any, subject to which the permit for the lottery is granted, to receive prizes.

(2a) The sale of a ticket in a continuing lottery to a person taking part in that lottery is not, for the purposes of this Division, a supply of the ticket.

(3) Subject to section 102, this Division does not apply to, or in relation to, any lottery conducted under the *Lotteries Commission Act 1990*.

[Section 101 amended: No. 16 of 1990 s. 33; No. 6 of 2000 s. 12; No. 45 of 2002 s. 13; No. 41 of 2018 s. 22; No. 53 of 2024 s. 56.]

102. Certain lotteries unlawful

The conduct of a lottery, whether or not it constitutes gaming, is unlawful unless it is a trade promotion lottery that complies with prescribed conditions, a lottery, game of lotto or soccer football pool conducted under the *Lotteries Commission Act 1990*, an authorised game as defined by the *Casino Control Act 1984* played in accordance with rules approved under that Act in a licensed casino as so defined, or is, or is deemed to be, a permitted lottery, permitted gaming, social gambling, or a permitted amusement with prizes.

[Section 102 amended: No. 16 of 1990 s. 33; No. 24 of 1998 s. 61(1); No. 26 of 1998 s. 23; No. 6 of 2000 s. 13; No. 35 of 2003 s. 157.]

103. Permitted lotteries (deemed)

(1) A lottery in which —

(a) tickets or chances are sold to or subscriptions received from —

(i) persons all of whom work or reside on the same premises; or

(ii) persons all of whom are members of, or are the *bona fide* guests of, a body of persons established and conducted for purposes not connected with gaming or lotteries,

and not otherwise; and

(b) the price of every ticket, chance or subscription is the same; and

(c) the winning of, or the purchase of a chance to win, a prize does not entitle any person (whether subject to a further payment or not) to any further opportunity to win money or money's worth by taking part in any gaming or in any lottery; and

(d) no prize, in money or money's worth exceeding the prescribed amount, is distributed or offered; and

(e) the sale of tickets or chances, and the receipt of subscriptions, and the declaration of the result take place within 8 days,

shall, subject to subsection (3), be deemed to be a permitted lottery.

(2) A lottery in which —

(a) the tickets are alphabetically and numerically distinct but the same price; and

(b) the declaration of the result takes place on the same day and on the premises on which the tickets are sold; and

(c) the aggregate of the value of the prizes offered or distributed does not exceed the prescribed amount,

shall, subject to subsection (3), be deemed to be a permitted lottery.

(3) In relation to a lottery to which this section applies the following conditions are implied —

(a) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes in the lottery or to purposes which are purposes common to the persons participating; and

(b) no advertisement of the lottery shall be exhibited, published or distributed, other than a notice on the premises of the persons for whom it is conducted or such as may be contained in the tickets or approved by the Commission; and

(c) no prize won shall be paid or delivered to a person other than a person eligible to participate to whom the winning ticket or chance was sold.

[Section 103 amended: No. 35 of 2003 s. 158.]

104. Permits for lotteries; duties of holders of permit for standard lottery

(1) A permit authorising the conduct of a lottery may be issued —

(a) where the Commission is satisfied that it is not to be conducted for the purposes of private gain or any commercial undertaking; or

(b) for a trade promotion lottery that does not comply with the conditions referred to in section 102.

(1a) A permit may be issued for a continuing lottery, in support of religious or charitable purposes or the promotion or advancement of social welfare including sports or games and

cultural or public recreational activities, for a period not exceeding 12 months.

(1b) A permit for a continuing lottery shall not be issued to a person who is a licensed supplier within the meaning of section 3(1).

(1c) A permit for a standard lottery of the kind generally known or described as a calcutta shall be issued only to a race club or an approved club.

(1D) A permit for a standard lottery must not be issued under subsection (1)(a) if —

(a) the Commission has under section 104AA(1) required the applicant to provide to the Commission security by way of a compliant guarantee; and

(b) the applicant has not complied with that requirement.

(2) A person applying for a permit authorising a standard lottery shall furnish to the Commission evidence satisfactory to the Commission as to —

(a) the proposed opening date and closing date and date of drawing; and

(b) the locality in which tickets or chances are to be offered for sale or in which subscriptions may be received; and

(c) the purpose for which the standard lottery is to be conducted; and

(d) the total number of tickets or chances to be offered for sale, or the total number of subscriptions proposed to be called for; and

(e) the price of each ticket, chance or subscription; and

(f) the total amount of the prize money or other prizes proposed to be distributed or offered in the standard lottery; and

(g) such other matters as may be prescribed or as are required by the Commission.

(3) With respect to a standard lottery —

(a) the permit holder shall keep in such form as may be prescribed a book regularly and promptly posted up, showing a true and accurate account of the receipt and disposal of all property received and disposed of in connection with the standard lottery; and

(b) all accounts and other books, tickets, butts of tickets, vouchers and things relating to the standard lottery shall at all times be kept readily accessible by the permit holder for inspection or audit as provided by this Act; and

(c) the permit holder shall within 30 days after the date of drawing of the standard lottery furnish to the Commission a true and accurate account of the receipt and disposal of all property in the conduct of the standard lottery; and

(d) notwithstanding that on the closing date the standard lottery is not filled or fully subscribed, the standard lottery shall be closed on that date and thereafter shall be drawn, but may be drawn on a *pro rata* basis; and

(e) the Commission may at any time and from time to time permit the permit holder to postpone the closing date of the standard lottery for such period as the Commission may determine and the permit holder shall postpone the date of drawing in accordance with the determination; and

(ea) the permit holder shall ensure that every ticket or chance sold or subscription received is included in the drawing of a standard lottery; and

(eb) subject to any postponement of the closing date under paragraph (e), the permit holder shall ensure that the drawing of a standard lottery takes place within the prescribed period after the closing date of the lottery; and

(f) unless paragraph (e) applies, the closing date shall be not more than 3 months from the opening date; and

(g) every ticket and every notice or advertisement of the lottery shall specify the name of the permit holder, the body on behalf of which or the purposes for which it is conducted (as the Commission may require), and the closing date; and

(h) the price of every ticket, chance or subscription shall be the same, and shall be stated on the ticket; and

(j) no person shall be permitted to participate except after payment of the whole price of the ticket, chance or subscription; and

(k) no money received for or on account of a ticket, chance or subscription shall be returned unless the Commission has given the permit holder notice in writing authorising the return of the money.

(4) A permit holder who fails to comply with subsection (3)(ea) or (eb) commits an offence.

Penalty for this subsection: a fine of $10 000.

(5) A person who returns any money contrary to subsection (3)(k) commits an offence.

Penalty for this subsection: a fine of $10 000.

[Section 104 amended: No. 24 of 1998 s. 62; No. 6 of 2000 s. 14; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 57 and 71.]

104AA. Commission may require bank guarantee for certain standard lotteries

(1) If a person applies for a permit to be issued under section 104(1)(a) authorising a standard lottery, the Commission may by written notice require the person to provide to the Commission security by way of a compliant guarantee for an amount specified in the notice.

(2) A condition imposed in relation to a standard lottery permit issued under section 104(1)(a) may require the permit holder to provide to the Commission, within the time specified in the instrument imposing the condition or as otherwise allowed by the Commission under subsection (3), security by way of a compliant guarantee for an amount specified in the condition.

(3) For the purposes of subsection (2), the Commission may by written notice to the permit holder allow the guarantee to be provided within a later time specified in the notice.

(4) The amount of the compliant guarantee specified in a notice under subsection (1) or a condition under subsection (2) must not exceed the total value of the prizes proposed to be distributed or offered in the standard lottery.

[Section 104AA inserted: No. 53 of 2024 s. 58.]

104AB. Commission's powers if bank guarantee provided

(1) This section applies if —

(a) a compliant guarantee is provided to the Commission in relation to a standard lottery; and

(b) the Commission is satisfied that the lottery has failed or is likely to fail.

(2) The Commission may, by written notice, require the permit holder or, if the permit holder is the nominee permit holder for a body of persons (***relevant body***) in relation to the lottery, the relevant body to do 1 or more of the following —

(a) conduct and draw the lottery, including under the supervision of an authorised officer;

(b) inform persons, or a class of persons, specified in the notice that the Commission intends to distribute, from money paid to the Commission under the compliant guarantee, a refund to each ticket holder who is not otherwise refunded;

(c) provide to persons, or a class of persons, specified in the notice information specified in the notice regarding the process for ticket holders to claim a refund;

(d) inform persons, or a class of persons, specified in the notice that the Commission intends to distribute, from money paid to the Commission under the compliant guarantee, the equivalent cash value of the prize to each prize winner who has not received their prize.

(3) The Commission may by written notice require the relevant body to nominate an individual to carry out the relevant body's obligations in relation to any requirement made under subsection (2).

(4) The Commission may make a requirement under subsection (2) or (3) regardless of whether the standard lottery permit has expired.

(5) The Commission may do either or both of the following —

(a) advertise for, and call for claims from, ticket holders or prize winners in relation to the standard lottery;

(b) subject to section 104AC, take any other action that the Commission reasonably considers necessary to prevent or remedy the failure of the lottery.

[Section 104AB inserted: No. 53 of 2024 s. 58.]

104AC. Commission may demand payment under bank guarantee

(1) This section applies if —

(a) a compliant guarantee is provided to the Commission in relation to a standard lottery; and

(b) the Commission is satisfied that the lottery has failed or is likely to fail.

(2) Subject to section 104AD, the Commission may demand payment under the compliant guarantee if the requirements of subsection (3) or (4) are met.

(3) For the purposes of subsection (2), the requirements of this subsection are met if the Commission is satisfied that —

(a) all money received for or on account of a ticket, chance or subscription in the standard lottery should be refunded to ticket holders; and

(b) the amount of money available to be refunded to ticket holders is less than the total amount of all money received for or on account of a ticket, chance or subscription in the standard lottery.

(4) For the purposes of subsection (2), the requirements of this subsection are met if the Commission is satisfied that —

(a) the total value of the prizes proposed to be distributed or offered in the standard lottery should be distributed to prize winners; and

(b) 1 or more of the prizes proposed to be distributed or offered in the standard lottery is not available to be distributed to prize winners.

[Section 104AC inserted: No. 53 of 2024 s. 58.]

104AD. Commission must give notice in relation to bank guarantee

(1) Before demanding payment under a compliant guarantee provided in relation to a standard lottery, the Commission must give the permit holder and any relevant body written notice under this section.

(2) The written notice must —

(a) state the Commission's intention to demand payment under the guarantee and the amount of money that the Commission intends to demand; and

(b) invite the permit holder and any relevant body to make representations in writing to the Commission as to why the Commission should not demand payment as proposed; and

(c) state the period (which must be at least 7 days after the day on which the notice is given) within which representations may be made.

(3) After the end of the period stated in the notice the Commission must consider any representations in writing made by the permit holder or any relevant body.

(4) If the Commission decides to demand payment under the guarantee, the Commission must give the permit holder and any relevant body written notice of the decision and reasons for the decision.

[Section 104AD inserted: No. 53 of 2024 s. 58.]

104AE. Commission to deal with money paid under bank guarantee

(1) If the Commission demands payment under a compliant guarantee —

(a) any money paid to the Commission under the guarantee must be paid into the Gaming and Wagering Commission Account; and

(b) the Commission holds that money on trust for all persons interested.

(2) Subsections (3) and (4) apply if —

(a) money is paid to the Commission under a compliant guarantee provided in relation to a standard lottery; and

(b) the period of 12 months beginning on the day on which the money is paid to the Commission has ended; and

(c) some or all of the money (the ***unclaimed amount***) has not been distributed to ticket holders or prize winners.

(3) If this subsection applies —

(a) any right of a ticket holder or prize winner in relation to the unclaimed amount is extinguished; and

(b) subject to subsection (4), the Commission must return the unclaimed amount to the permit holder or relevant body.

(4) If the Commission is satisfied that the unclaimed amount cannot be returned to the permit holder or relevant body, the unclaimed amount must be dealt with under section 109C as if it were unclaimed winnings to which section 109B(3) applies.

[Section 104AE inserted: No. 53 of 2024 s. 58.]

104AF. Return of bank guarantee

If the Commission is satisfied that a compliant guarantee provided to the Commission by a person in relation to a standard lottery is no longer required, the Commission may return the guarantee to the person.

[Section 104AF inserted: No. 53 of 2024 s. 58.]

104A. Commission not liable for unpaid lottery prizes

The Commission is not liable to compensate a person who, in a lottery for which a permit has been issued under section 104, wins a prize that for any reason is not paid to the person.

[Section 104A inserted: No. 24 of 1998 s. 63.]

104B. Licensing of suppliers of lottery tickets

(1) A person, other than a person holding a permit, may, in accordance with subsection (2), apply to the Commission to be licensed under this Division as a licensed supplier.

(2) An application under subsection (1) shall be made in writing, in a form approved by the Commission, specifying —

(a) the address of the place of business within the State at which tickets and records required under this Division to be maintained are to be kept; and

(b) such other particulars as the Commission requires,

and shall be accompanied by the prescribed fee.

(3) In considering an application under subsection (1), the Commission may have regard to the financial circumstances of the applicant and such other matters as the Commission considers relevant and, without limiting the grounds on which an application may be refused, the Commission may refuse an application on the ground that —

(a) the applicant has an interest in a body corporate that holds a licence; or

(b) the applicant is a body corporate and a person having an interest in the body corporate holds a licence or has an interest in another body corporate that holds a licence; or

(c) the applicant or, where the applicant is a body corporate, the body corporate or a person having an interest in the body corporate has previously held a licence, or had an interest in a body corporate that held a licence, which licence was cancelled under this Division.

(4) For the purposes of subsection (3), a person has an interest in a body corporate if the person —

(a) holds office as a director of the body corporate; or

(b) holds any share, or has a beneficial interest in any share, in that body corporate; or

(c) holds any unit in a unit trust scheme of which the body corporate is the trustee; or

(d) has an interest as a beneficiary under a trust of which the body corporate is the trustee; or

(e) may, as the result of the exercise of a power or discretion by the body corporate, benefit under a discretionary trust.

(5) The Commission may issue to a person making an application under subsection (1) a licence in a form approved by the Commission and a licence so issued —

(a) is not transferable and relates only to the person to whom it is issued but extends to the conduct of business by that person in the capacity of a trustee; and

(b) has effect for 5 years, or until it is cancelled or surrendered under this Division.

[Section 104B inserted: No. 6 of 2000 s. 15; amended: No. 12 of 2008 Sch. 1 cl. 9.]

104C. Licences of licensed suppliers, cancelling etc.

(1) Where —

(a) the Commission has reason to believe that a licensed supplier has contravened this Division, whether or not the licensed supplier has been convicted of, or proceedings have been instituted against the licensed supplier in respect of, that contravention; or

(b) a licensed supplier ceases to carry on the business by reason of which the licensed supplier was required to be licensed; or

(c) the Commission has reason to believe that the person is no longer a fit and proper person to hold the licence,

the Commission may, by notice in writing given to the licensed supplier, cancel the licence held by the licensed supplier.

(2) For the purposes of subsection (1)(b) a licensed supplier is taken to have ceased to carry on the relevant business if, upon the Commission giving to the licensed supplier notice in writing requiring the licensed supplier to show that the licensed supplier has not ceased to carry on the business, the licensed supplier fails within one month after the notice was given to satisfy the Commission that, in the 3 months before the notice was given, the licensed supplier has, in the ordinary course of business,

supplied any tickets for the supply of which a licence is required by this Division.

(3) A licensed supplier may, by notice in writing given to the Commission, surrender the licence held by that person.

(4) Where the licence of a person is cancelled or surrendered under this section, that person shall —

(a) within 14 days after the cancellation or surrender, or such further time as the Commission may approve in writing, lodge with the Commission a return in such form as the Commission requires in writing showing the total face value of all tickets supplied by that person under the licence since the last period in respect of which the person has lodged a return under section 104F and showing such other information as the Commission requires in writing; and

(b) at the time of lodging the return required by paragraph (a) or within such further time as the Commission may approve in writing, pay to the Commission the continuing lotteries levy in respect of all tickets supplied by that person as shown in the return.

Penalty for this subsection: a fine of $10 000.

[Section 104C inserted: No. 6 of 2000 s. 15; amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

104D. Refusal or cancellation of supplier's licence, Commission to report to Minister; appeals to Minister

(1) Where the Commission —

(a) under section 104B, refuses the application of a previous licence holder for a further licence; or

(b) under section 104C, cancels the licence of a person,

the Commission, after having given an opportunity to the person to make submissions in relation to the matter and considered

any submissions so made, shall make a report and recommendations to the Minister in accordance with section 62.

(2) A person aggrieved by a determination of the Commission may submit an appeal to the Minister in accordance with section 62.

[Section 104D inserted: No. 6 of 2000 s. 15.]

104E. Suppliers to give Commission tickets if licence cancelled etc.

(1) Where —

(a) under —

(i) section 104C, the licence of a person is cancelled; or

(ii) section 104B, a further licence for a person is refused;

and

(b) the person has not submitted an appeal against the cancellation or refusal; and

(c) the time for submitting an appeal has passed,

the person commits an offence against this Act if that person does not, within 30 days after the passing of the appeal time, deliver to the Commission all tickets that are in that person's possession or dispose of those tickets in such other manner as the Commission approves in writing.

Penalty for this subsection: a fine of $10 000.

(2) Where —

(a) under —

(i) section 104C, the licence of a person is cancelled; or

(ii) section 104B, a further licence for a person is refused;

and

(b) the person has appealed against the cancellation or refusal; and

(c) the appeal has been dealt with by the Minister; and

(d) the Minister has confirmed the cancellation of the licence or confirmed the refusal to issue a further licence,

the person commits an offence against this Act if that person does not, within 30 days after the confirmation, deliver to the Commission all tickets that are in that person's possession or dispose of those tickets in such other manner as the Commission approves in writing.

Penalty for this subsection: a fine of $10 000.

(3) Where the licence of a person is surrendered under section 104C the person commits an offence against this Act if that person does not, within 14 days after the licence is surrendered, deliver to the Commission all tickets that are in that person's possession or dispose of those tickets in such other manner as the Commission approves in writing.

Penalty for this subsection: a fine of $10 000.

[Section 104E inserted: No. 6 of 2000 s. 15; amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

104F. Licensed suppliers to lodge returns and pay continuing lotteries levy

(1) A licensed supplier shall —

(a) within 90 days after the end of each quarter during which the licensed supplier has supplied tickets under the licence or such further time as the Commission may approve in writing, lodge with the Commission a return in such form as the Commission requires in writing showing the total face value of all tickets supplied by the licensed supplier under the licence during that quarter,

and showing such other information as the Commission requires in writing; and

(b) at the time of lodging each return required by paragraph (a) or within such further time as the Commission may approve in writing, pay to the Commission the continuing lotteries levy in respect of all tickets supplied by the licensed supplier as shown in the return.

Penalty for this subsection: a fine of $10 000.

(2) The Commission may, where upon application made to the Commission in writing the Commission sees fit in the circumstances of the case to do so, approve in writing of the lodging of returns under subsection (1)(a) —

(a) in respect of a period other than a quarter; and

(b) within 60 days, or such further time as the Commission sees fit, after the end of a period approved under paragraph (a),

and may vary or revoke any such approval.

(3) Where an approval under subsection (2) is for the time being in force, subsection (1) shall, in relation to a case to which that approval applies, have effect as modified by that approval as for the time being in force.

(4) Where a licensed supplier has not supplied tickets under his or her licence during any quarter or other period in respect of which the licensed supplier has approval under subsection (2)(a) to lodge returns, the licensed supplier shall lodge with the Commission a return in respect of that quarter or other period showing that no tickets were so supplied and showing such other information as the Commission requires under subsection (1)(a).

Penalty for this subsection: a fine of $10 000.

(5) Where the Commission considers that circumstances warrant so doing, the Commission may, by notice in writing given to a licensed supplier, require the lodgement by that licensed supplier of returns under this section and payment of the continuing lotteries levy, at a time specified in the notice that is earlier than the time when the licensed supplier would otherwise be required to lodge returns under this section and pay the continuing lotteries levy, and may, by subsequent notice so given, vary or revoke any notice under this subsection and this section shall have effect as modified by any such notice.

[Section 104F inserted: No. 6 of 2000 s. 15; amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

104G. Continuing lotteries levy, application of

(1) Of the continuing lotteries levy received by the Commission after the commencement of this section but before 1 July 2000 —

(a) 83.3% (five-sixths) is to be credited to the Consolidated Account; and

(b) 16.7% (one-sixth) is to be paid into and placed to the credit of the Gaming Commission Account established under section 9(2).

(2) Of the continuing lotteries levy received by the Commission on or after 1 July 2000 —

(a) 69.23% (nine-thirteenths) is to be credited to the Consolidated Account; and

(b) 30.77% (four-thirteenths) is to be paid into and placed to the credit of the Gaming Commission Account established under section 9(2).

[Section 104G inserted: No. 6 of 2000 s. 15; amended: No. 77 of 2006 s. 4.]

104H. Exemption from levy

A continuing lotteries levy is not payable on a return lodged under this Division by a licensed supplier to the extent that the return relates to the supply of tickets to —

(a) another licensed supplier; or

(b) a person outside the State.

[Section 104H inserted: No. 6 of 2000 s. 15.]

104I. Refund of levy

(1) Where tickets have been supplied by a licensed supplier and are subsequently returned to the licensed supplier without having been sold in a continuing lottery, the continuing lotteries levy is not payable in respect of that supply and, if paid, shall be refunded to the licensed supplier.

(2) A person who returns the tickets to the licensed supplier under subsection (1) may recover the amount, if any, of the continuing lotteries levy concerned in a court of competent jurisdiction as a civil debt due from the licensed supplier.

(3) Where, under subsection (1), a levy is to be refunded to a licensed supplier, the Commission may set the amount off against any other amount of continuing lotteries levy payable by that person.

[Section 104I inserted: No. 6 of 2000 s. 15.]

104J. Tickets, protecting and accounting for; estimating levy for lost etc. tickets

(1) A licensed supplier shall not destroy or cause to be destroyed any ticket that is in his or her possession except with the written approval of the Commission.

(2) A licensed supplier shall take reasonable precautions to prevent the theft or loss, or the destruction without the approval of the

Commission, of tickets that are in the possession of, or are being consigned to, the licensed supplier.

(3) A licensed supplier shall, at such times as the Commission by notice in writing requires, take stock of the tickets in his or her possession and provide to the Commission, in a form approved by the Commission, particulars of —

(a) the number of tickets found upon the stocktake to be in his or her possession; and

(b) any discrepancy between the number of tickets so found to be in his or her possession and records maintained in accordance with the regulations.

(4) Where it appears to the Commission, whether from an examination of any form or records or otherwise, that —

(a) a licensed supplier has destroyed or caused to be destroyed any tickets contrary to subsection (1); or

(b) tickets in the possession of, or being consigned to, a licensed supplier have been lost or stolen, or have been destroyed other than with the approval of the Commission or under section 104K; or

(c) the number of tickets in the possession of a licensed supplier and being kept as required by section 104L(3) is less than the number of tickets that is shown by the records maintained in accordance with the regulations as being in the possession of the licensed supplier,

the Commission may create a memorandum of, and cause an assessment to be made of the amount of, the continuing lotteries levy that, in its judgment, would have been imposed, if the tickets concerned had been supplied by the licensed supplier and had been the subject of a return under this Division.

(5) The Commission shall not create a memorandum under subsection (4) in respect of tickets where it is satisfied that —

(a) the tickets were lost, stolen or destroyed and the licensed supplier had taken all reasonable precautions to prevent the theft, loss or destruction; or

(b) the licensed supplier has otherwise provided a satisfactory explanation for the deficiency.

(6) Where an assessment of the continuing lotteries levy is made under subsection (4), there is chargeable in addition to the continuing lotteries levy as a result of that assessment, a fine equal to that levy and that fine is payable at the same time and recoverable in the same manner as that levy but the Commission may remit wholly or in part any fine chargeable under this subsection.

[Section 104J inserted: No. 6 of 2000 s. 15.]

104K. Tickets may be given to Commission for destruction

A licensed supplier may deliver any ticket to the Commission for destruction and the Commission may cause any ticket delivered under this section to be destroyed.

[Section 104K inserted: No. 6 of 2000 s. 15.]

104L. Offences by licensed suppliers

(1) A licensed supplier shall not cause to be produced, nor obtain from or supply to any person, tickets that are, or are part of, a batch comprising more than such number of tickets as is prescribed by the regulations to be the maximum number of tickets that may be in one batch.

Penalty for this subsection: a fine of $50 000.

(2) A licensed supplier shall not supply tickets to any person within the State unless —

(a) the licensed supplier supplies to that person all of the tickets in the batch; and

(b) there is printed on each ticket —

(i) the face value of the ticket; and

(ii) a series number that is common to all of the tickets in the same batch and distinguishes the ticket from tickets in any other batch; and

(iii) the licence number allocated to the licensed supplier by the Commission or, where the tickets have been previously supplied by another licensed supplier, the licence number so allocated to that licensed supplier;

and

(c) the tickets are otherwise in accordance with the regulations.

Penalty for this subsection: a fine of $50 000.

(3) A licensed supplier shall keep, at the address specified under section 104B(2)(a) or such other address as is for the time being approved in writing by the Commission —

(a) all tickets that are in his or her possession; and

(b) all records that he or she is required by the regulations to maintain that relate to the preceding 5 years.

Penalty for this subsection: a fine of $50 000.

(4) The Commission may, by notice in writing, revoke any approval given for the purposes of subsection (3).

[Section 104L inserted: No. 6 of 2000 s. 15; amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

104M. Offences involving continuing lottery tickets

(1) A person who is not a licensed supplier shall not —

(a) obtain tickets for sale in a continuing lottery from a person who is not a licensed supplier; or

(b) alter anything printed on a ticket as required by section 104L(2)(b).

Penalty for this subsection: a fine of $50 000.

(2) A person shall not sell or offer for sale in a continuing lottery any ticket for more than the face value of the ticket printed on the ticket.

Penalty for this subsection: a fine of $50 000.

(3) A person shall not sell or offer for sale in a continuing lottery —

(a) any ticket that has not been obtained from a licensed supplier; or

(b) any ticket not having printed on it each of the things mentioned in section 104L(2)(b).

Penalty for this subsection: a fine of $50 000.

[Section 104M inserted: No. 6 of 2000 s. 15; amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

105. Continuing lotteries, use of vending machines to sell tickets for

(1) Subject to subsection (2), a permit authorising the conduct of a continuing lottery is deemed to be subject to an implied condition, which shall not be required to be noted on the permit or in the register, prohibiting the sale of tickets or chances, or their offer for sale, by means of a vending machine.

(2) Subsection (1) does not apply in relation to a lottery if all of the tickets or chances in the lottery are sold or offered for sale by means of a vending machine located on premises, or 2 or more vending machines located on the same premises, where those premises are of a prescribed kind or class.

[Section 105 amended: No. 24 of 1998 s. 64.]

106. Offences involving lotteries

(1) A person who —

(a) fraudulently takes or fraudulently converts to his own use or to that of any other person, any prize in or money raised by a lottery; or

(b) conducts an unlawful lottery, whether or not constituting unlawful gaming,

commits an offence.

Penalty for this subsection: a fine of $100 000.

(1a) Section 371 of *The Criminal Code* (other than subsection (1) of that section) applies for the purposes of subsection (1)(a) —

(a) as if the reference to "act of stealing" in subsection (6) of that section were a reference to "commission of the offence"; and

(b) with any other necessary changes.

(2) In relation to an unlawful lottery, a person who —

(a) prints any tickets for use in the lottery; or

(b) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or

(c) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution —

(i) any advertisement of the lottery; or

(ii) any list, whether complete or not, of prize winners or winning tickets in the lottery; or

(iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other unlawful lotteries;

or

(d) brings, or invites any person to send, into the State for the purpose of sale or distribution any ticket in, or advertisement of, the lottery; or

(e) sends or attempts to send out of the State any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, of any ticket or chance in the lottery; or

(f) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the conduct of the lottery; or

(g) receives money, any valuable thing, or any goods for the purposes of the lottery,

commits an offence.

Penalty for this subsection: a fine of $100 000.

(3) In proceedings for an offence under subsection (2) it shall be a defence to prove that at the date of the alleged offence the person charged believed, and had reasonable grounds for believing, that the lottery was being conducted under and in accordance with the requirements of this Act.

[Section 106 amended: No. 24 of 1998 s. 65; amended: No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 59 and 71.]

107. Amusements with prizes, which are permitted

(1) Where any amusement with prizes which constitutes gaming or a lottery or both is provided in relation to or in connection with any entertainment or event or for any charitable or social cause, and it —

(a) is not conducted for the purposes of private gain or of a commercial undertaking; and

(b) does not contravene subsection (2),

the conduct of that gaming or lottery is not unlawful and the provision of the amusement with prizes shall, subject to subsection (2), be deemed to be permitted.

(2) Where an amusement with prizes is provided at any premises in circumstances to which subsection (1) applies —

(a) the whole proceeds of the amusement, after deducting expenses, shall be applied for purposes other than of private gain or of a commercial undertaking; and

(b) the facilities for winning prizes at the amusement provided, or those facilities together with any other facilities for participating in permitted gaming or social gambling, shall not be the only, or the only substantial, inducement to persons to attend the premises.

(3) For the purposes of subsection (2)(a), where any payment is made in respect of the hiring, maintenance or use of gaming equipment and the amount payable is determined wholly or partly by reference to the extent to which that equipment or some other machine or equipment is used for the purposes of gaming, that payment shall be taken to be an application of the proceeds for the purposes of private gain and shall not constitute a deductible expense.

(4) Where amusements with prizes (which may include games to which section 42(3)(a) refers) are provided at an agricultural show, a pleasure fair, a fete, or another like event and consist wholly or mainly of amusements provided by travelling showmen, the respective amusements shall each be deemed to be a permitted amusement with prizes if —

(a) the opportunity to win prizes at the amusements is not the only, or the only substantial, inducement to persons to attend the event; and

(b) in relation to any amusement which is a lottery, the sale of chances and the declaration of the result take place on

the same day and on the premises on which, and during the time when, the amusement is provided; and

(c) the amount paid by any person for any chance to win a prize does not exceed the prescribed amount; and

(d) no money prize is distributed or offered which exceeds the prescribed amount,

notwithstanding that the amusement would otherwise constitute gaming or a lottery.

[Section 107 amended: No. 35 of 2003 s. 159 and 167; No. 41 of 2018 s. 23.]

108. Some fund raising activities deemed permitted amusement with prizes

(1) The conduct of —

(a) a guessing competition or any other competition in which success does not depend to a substantial degree on the exercise of skill; or

(b) a number game based on sporting achievements of a public nature; or

(c) a raffle, chocolate wheel, art union or other scheme or device for the disposition of property; or

(d) any other minor fund raising activity,

which would otherwise be taken to constitute gambling or a lottery, when conducted as a means of raising money for the benefit of community, cultural, ethnic or charitable purposes, and not for the purposes of private gain or any commercial undertaking, shall, subject to subsection (2) and unless subsection (3) applies, not be taken to be unlawful and shall be deemed to be conducting a permitted amusement with prizes.

(2) The aggregate value of the prizes offered or distributed in relation to an activity to which this section relates shall not exceed the prescribed amount.

(3) The Commission may, by notice in writing to the person proposing to conduct or conducting gambling of a kind to which subsection (1) refers, prohibit the conduct of that gambling, or gambling of that kind in the circumstances specified in the notice.

(4) A person who contravenes a prohibition imposed pursuant to subsection (3) commits an offence.

Penalty for this subsection: a fine of $5 000.

[Section 108 amended: No. 24 of 1998 s. 66; No. 35 of 2003 s. 160 and 166; No. 41 of 2018 s. 25(1); No. 53 of 2024 s. 71.]

109. Regulations for this Division

Regulations made for the purposes of this Division may make provision —

(a) as to the requirements for the keeping of accounts and the furnishings of reports by persons conducting lotteries; and

(aa) in respect of the records to be maintained by licensed suppliers and the manner in which those records are to be kept; and

(b) requiring security to be furnished by persons having the receipt, control or handling of any money or valuable thing received in connection with a lottery; and

(c) prescribing the terms and conditions under which standard lotteries may be conducted, including the maximum value, or the maximum aggregate value, of any prize money or other prize that may be offered; and

(d) as to the relation between the time of opening, closing, and drawing of a standard lottery; and

(e) as to the conduct of continuing lotteries; and

(f) as to the use of vending machines in relation to lotteries; and

(g) as to the manner in which a lottery may be advertised, and providing for the advertisement of winning numbers and the notification and delivery to the winner of any prize; and

(h) as to the printing of tickets and the security of printing arrangements or of tickets, and as to the information which must, or must not, appear on a ticket; and

(j) as to the matters in respect of which expenses may be incurred, or if incurred shall be taken not to be deductible for the purposes of this Division; and

(k) prescribing the conditions governing the employment of agents; and

(l) the use of postal services in connection with activities to which this Division applies; and

(m) generally as to the conduct of lotteries, amusements with prizes, minor fund raising activities, and matters to which this Division applies.

[Section 109 amended: No. 24 of 1998 s. 67; No. 6 of 2000 s. 16.]

Division 8 — Unclaimed winnings

[Heading inserted: No. 24 of 1998 s. 68(1).]

109A. Terms used

In this Division —

Trust means the Gaming Community Trust established under section 109D;

Trust Account means the Gaming Community Trust Account referred to in section 109C;

unclaimed winnings includes any stake hazarded or bet placed that is repayable with the unclaimed winnings.

[Section 109A inserted: No. 24 of 1998 s. 68(1); amended: No. 77 of 2006 Sch. 1 cl. 71(3).]

109B. Unclaimed winnings, Commission to be notified of etc.

(1) If any winnings —

(a) greater than the prescribed amount; or

(b) in a form other than money and with a value greater than the prescribed amount,

are payable from the conduct of gaming authorised by a permit or a game of a kind referred to in section 39(2)(d)(ii) and are not claimed within 12 months after the right to be paid them first arises (***unclaimed winnings***), the permit holder, or the person responsible for the conduct of the gaming authorised by the permit or the game (the ***responsible person***), shall notify the Commission in writing of —

(c) details of the unclaimed winnings; and

(d) the name, and any known address, of the person entitled to be paid the unclaimed winnings (the ***winner***); and

(e) details of any steps taken to find and contact the winner.

(2) On being notified under subsection (1), the Commission may give directions to the permit holder or the responsible person as to any specified steps, or any specified additional steps, to be taken to find and contact the winner.

(3) If, on the expiry of 2 months —

(a) after the Commission is notified under subsection (1); or

(b) if directions are given under subsection (2), after those directions are given,

the unclaimed winnings have not been claimed —

(c) the right of the winner to be paid those winnings is extinguished; and

(d) subject to subsection (4), the unclaimed winnings shall be dealt with under section 109C.

(4) The Commission may give directions to the permit holder or the responsible person as to the disposal of any unclaimed winnings where —

(a) the right of the winner to be paid the winnings has been extinguished under subsection (3); and

(b) the winnings are in a form other than money,

and any proceeds of that disposal shall be taken to be unclaimed winnings to be dealt with under section 109C.

(5) It is a condition of a permit that the permit holder, or the person responsible for the conduct of the gaming authorised by the permit, complies with any direction given to the permit holder or person under this section.

[Section 109B inserted: No. 24 of 1998 s. 68(1); amended: No. 35 of 2003 s. 167.]

109C. Gaming Community Trust Account

(1) An agency special purpose account called the Gaming Community Trust Account is established under section 16 of the *Financial Management Act 2006* to which moneys that are unclaimed winnings —

(a) to which section 109B(3) or (4) applies; or

(b) to which section 15(3) or (4) of the *Casino Control Act 1984* applies,

are to be credited.

(2) The Trust Account shall be applied to purposes recommended by the Trust and approved by the Minister for the benefit of the community.

(3) The operation of the Trust Account shall be regarded as —

(a) a service under the control of the Department for the purposes of section 52 of the *Financial Management Act 2006*; and

(b) part of the operations of the Department for the purposes of Part 5 of that Act.

[Section 109C inserted: No. 24 of 1998 s. 68(1); amended: No. 77 of 2006 Sch. 1 cl. 71(4)-(6); No. 53 of 2024 s. 60.]

109D. Gaming Community Trust

(1) A body called the Gaming Community Trust is established.

(2) The function of the Trust is to give advice and make recommendations to the Minister, on its own initiative or at the request of the Minister, on the application of moneys standing to the credit of the Trust Account for the benefit of the community.

(3) The Trust shall consist of 5 members as follows —

(a) the CEO, who is the chairperson of the Trust;

(b) one person appointed by the Minister on the nomination of the casino licensee as defined in the *Casino Control Act 1984* section 3(1); and

(c) 3 persons appointed by the Minister who have, in the opinion of the Minister, experience or expertise relevant to the function of the Trust.

[(4) deleted]

(5) Subject to subsection (6), an appointed member holds office for the period, not exceeding 3 years, determined by the Minister and specified in the instrument of the member's appointment, and an appointed member is eligible for reappointment.

(6) The term of office of an appointed member may be terminated by the Minister at any time by notice in writing given to the member.

(7) The Minister may give directions in writing to the Trust as to its procedures, but otherwise the Trust may determine its own procedures.

(8) The Minister may —

(a) direct that the appointed members of the Trust are to be paid remuneration or allowances or both; and

(b) determine the amount of any such payments on the recommendation of the Public Sector Commissioner.

(9) In this section —

appointed member means a member appointed by the Minister under subsection (3)(b) or (c).

[Section 109D inserted: No. 24 of 1998 s. 68(1); amended: No. 35 of 2003 s. 168; No. 77 of 2006 Sch. 1 cl. 71(7); No. 39 of 2010 s. 89; No. 41 of 2018 s. 24; No. 53 of 2024 s. 61.]

Part VA — Supervision of RWWA

[Heading inserted: No. 35 of 2003 s. 161.]

109E. Gambling operations of RWWA, meaning of

A reference in this Part to the gambling operations of RWWA is a reference to the business of RWWA referred to in section 50(1)(b) of the RWWA Act.

[Section 109E inserted: No. 35 of 2003 s. 161; amended: No. 53 of 2024 s. 62.]

109F. Supervision of RWWA by Commission etc.

(1) Without limiting sections 20 to 20C of the *Betting Control Act 1954*, the Commission and an authorised officer have and may exercise in relation to —

(a) RWWA, the directors of the board of RWWA, the employees, officers and agents of RWWA, and the premises and property of RWWA; and

(b) any thing that the Commission or that officer has reasonable cause to believe relates to, or may be likely to affect, a person or matter referred to in paragraph (a); and

(c) the organisation, management and operations of RWWA including the related accounting and audit procedures of, and amenities or facilities ancillary to, the operations of RWWA,

like powers to those conferred on the Commission or an authorised officer, as the case may be, in relation to gambling under this Act, and persons, premises or things relating to gambling.

(2) Where a member of the Police Force or other person acts in aid of an authorised officer at the request of that officer, the person so acting is taken whilst so acting to have, and to be authorised to exercise, the powers conferred by this Part.

[Section 109F inserted: No. 35 of 2003 s. 161.]

109G. Directions to RWWA, Commission may give

(1A) In this section and in section 109H —

organisation, management and control, of the gambling operations of RWWA —

(a) means the organisation, management and control of the gambling operations of RWWA; and

(b) includes the organisation, management and control of operations (whether of RWWA or not) that relate to the gambling operations of RWWA.

(1) The Commission may give directions to RWWA about the organisation, management and control of the gambling operations of RWWA.

(2) A direction may be amended from time to time by the Commission as the Commission thinks fit.

(3) A direction or an amendment of a direction has effect when written notice of it is given to RWWA or on a later date specified in the notice.

(4) Controls and procedures referred to in directions, or in amendments of directions, may be described in words or represented diagrammatically, or by a combination of both methods.

(4A) Without limiting subsection (1), the Commission may give a direction to RWWA, or to a person responsible for the organisation, management and control of the gambling operations of RWWA, to adopt, vary, cease or refrain from any practice in respect of the gambling operations of RWWA.

(5) Where a direction given by the Commission so provides, a power of approval or other function specified in that direction may be exercised or carried out by a person or body to whom it has been delegated under section 16.

(6) For the purposes of a direction referred to in subsection (5), the giving of an approval or the imposition of a prohibition by a delegate referred to in that subsection is as effective as if given or imposed by the Commission.

(7) To the extent that a direction is inconsistent or in conflict with regulations made under the RWWA Act, the regulations prevail.

[Section 109G inserted: No. 35 of 2003 s. 161; amended: No. 53 of 2024 s. 63.]

109H. Contravention of directions

(1) RWWA must take all reasonable steps to ensure that any direction given to it under section 109G, or section 52 of the RWWA Act, is brought to the notice of, and is not contravened by, the following persons —

(a) a person responsible for the organisation, management and control of the gambling operations of RWWA;

(b) any other person acting in relation to the organisation, management and control of the gambling operations of RWWA as an employee, agent or otherwise on behalf of, or subject to the control of, RWWA.

Penalty for this subsection: a fine of $250 000.

(2) RWWA must comply with a direction given to it under section 109G or section 52 of the RWWA Act.

Penalty for this subsection: a fine of $250,000.

(3) A person other than RWWA given a direction under section 109G(4A) must comply with it.

Penalty for this subsection:

(a) for an individual, a fine of $100 000;

(b) for a body corporate, a fine of $250 000.

(4) If a direction is given to RWWA under section 109G or section 52 of the RWWA Act, a person to whom or which

subsection (1) refers in relation to the direction must comply with the direction.

Penalty for this subsection:

(a) for an individual, a fine of $100 000;

(b) for a body corporate, a fine of $250 000.

(5) It is a defence to a charge of an offence under subsection (2), (3) or (4) for the person charged to prove that they had a reasonable excuse for failing to comply with the direction.

[Section 109H inserted: No. 53 of 2024 s. 64.]

109I. Complaints about RWWA, Commission's functions as to

Without limiting section 109F, the Commission or an authorised officer may receive, investigate and deal with complaints from members of the public with respect to any aspect of the gambling operations of RWWA, and advise the complainant of the result of the complaint.

[Section 109I inserted: No. 35 of 2003 s. 161.]

109J. Reports on and inquiries into RWWA

(1) Where the Commission thinks fit, the Commission may report to the Minister and make recommendations as to any action that the Commission considers should be taken under section 109K.

(2) Where it appears to the Minister that it is in the public interest that an inquiry be carried out into the affairs, or into particular affairs, of RWWA or related matters the Minister may, in writing, direct the Commission to arrange the inquiry and a report on the findings of the inquiry.

(3) Related matters that may be made the subject of an inquiry include —

(a) gambling operations of RWWA; and

(b) RWWA's compliance with the RWWA Act, this Act and other written laws; and

(c) suspected corruption; and

(d) the directors of the board of RWWA, and their relationship with other persons, or a class of persons which includes other persons, who, in the opinion of the Minister, are associated with them or could affect or be in a position to exercise direct or indirect control over the carrying out of any function in, or in relation to, RWWA; and

(e) whether or not it is in the public interest that a director of the board of RWWA remain as a director.

(4) A direction given under subsection (2) —

(a) must specify the affairs or matters to be the subject of the inquiry; and

(b) may require the inquiry to be carried out by a person appointed by the Minister.

(5) Where the Commission is directed under subsection (2) to arrange for an inquiry, the Commission must publish in the *Gazette* a notice —

(a) specifying the affairs or matters concerned; and

(b) stating the name of the person carrying out the inquiry.

(6) For the purposes of an inquiry carried out at the direction of the Minister under subsection (2), the person carrying out the inquiry has the powers of a Royal Commission and the chairman of a Royal Commission, and the provisions of the *Royal Commissions Act 1968* have effect as if they were enacted in this Act with any necessary changes and in terms made applicable to the inquiry by that person.

[Section 109J inserted: No. 35 of 2003 s. 161.]

109K. Report or inquiry under s. 109J, Minister's powers following

(1) On receiving a report and recommendations made under section 109J(1) or as a result of an inquiry carried out pursuant to a direction given under section 109J(2), the Minister must, if of the opinion that any of the powers conferred by subsection (3) should be exercised, serve on RWWA and on any other person who is considered by the Minister to be likely to be affected by the exercise of that power a notice in writing —

(a) specifying the reasons for the Minister's opinion and which of the powers the Minister proposes to exercise; and

(b) requiring RWWA and any other person served with the notice to show cause in writing within 14 days after the date of that service why the power specified in that notice should not be exercised.

(2) A person on whom a notice has been served under subsection (1) may, within the period of 14 days after the date of that service, serve on the Minister a submission in writing showing cause why the power specified in that notice should not be exercised.

(3) After receiving and considering each submission served under subsection (2) the Minister may, subject to subsection (4) and if the Minister considers it in the public interest to do so —

(a) serve a letter of censure on RWWA;

(b) revoke the licence of a director given under section 14 of the RWWA Act;

(c) with the prior approval of the Governor, order RWWA to pay a monetary penalty fixed by the Minister but not exceeding $1 000 000.

(4) The Minister must not exercise a power conferred under subsection (3) unless that power was specified in the relevant notice served under subsection (1).

(5) The Minister may recover a penalty imposed under subsection (3)(c) in a court of competent jurisdiction as a debt due by RWWA to the Crown.

(6) A certificate signed by the Minister specifying the amount of penalty imposed under subsection (3)(c) and that the amount has not been paid is evidence that the amount so specified is payable in accordance with this Act and has not been paid.

[Section 109K inserted: No. 35 of 2003 s. 161; amended: No. 53 of 2024 s. 65.]

Part VI — Ancillary

110. Gambling on premises licensed for retail sale of liquor

(1) A person shall not take part in gambling, other than social gambling, on any premises which are licensed premises for the purposes of the *Liquor Control Act 1988* unless —

(a) not being a lottery, the gambling constitutes permitted gaming, or is wagering conducted in accordance with the RWWA Act or betting conducted in accordance with the *Betting Control Act 1954*, which is authorised to take place on that part of the premises; or

(b) being a lottery, it is conducted in a manner which does not contravene this Act or the *Lotteries Commission Act 1990*; or

(c) the premises are situated in a casino within the meaning of the *Casino Control Act 1984* and the gambling takes place by way of participation in, or as incidental to, an authorised game within the meaning of that Act conducted in accordance with that Act.

(2) In relation to permitted gaming which takes place on premises which are licensed premises for the purposes of the *Liquor Control Act 1988* in a part of the premises to which the public have access, the Commission shall ensure that such conditions are imposed as are necessary to secure that any such gaming in that part of the premises does not take place —

(a) for high stakes; or

(b) in such circumstances as to constitute an inducement to persons to resort to the premises primarily for the purpose of taking part in any such gaming.

[Section 110 amended: No. 125 of 1987 s. 33; No. 16 of 1990 s. 33; No. 24 of 1998 s. 69; No. 35 of 2003 s. 162 and 166; No. 73 of 2006 s. 114.]

110A. Sports Wagering Account

(1) An account called the Sports Wagering Account must be established as an agency special purpose account under the *Financial Management Act 2006* section 16, to which money paid by RWWA under section 104 of the RWWA Act is to be credited.

[(2) deleted]

(3) The Sports Wagering Account shall —

(a) be administered by the Sport and Recreation Department; and

(b) be applied for the purpose of the payment of outgoings referred to in subsection (5).

[(4) deleted]

(5) The chief executive officer of the Sport and Recreation Department must, as directed by the Sport and Recreation Minister, distribute the moneys referred to in subsection (1) and the moneys from time to time standing to the credit of the Sports Wagering Account —

(a) to the persons or bodies of persons; and

(b) for the purposes; and

(c) in the respective amounts,

directed by that Minister.

[Section 110A inserted: No. 35 of 2003 s. 163; amended: No. 28 of 2006 s. 403; No. 77 of 2006 Sch. 1 cl. 71(8); No. 37 of 2018 s. 66; No. 53 of 2024 s. 66.]

110B. Racing Bets Levy Account

(1) An account called the Racing Bets Levy Account must be established as an agency special purpose account under the *Financial Management Act 2006* section 16, to which the CEO

must credit money paid to or recovered by the CEO under the *Betting Control Act 1954* sections 14A to 14D.

(2) The Racing Bets Levy Account must be administered by the Department.

(3) The Racing Bets Levy Account is to be applied for the purpose of the payment of the outgoings and expenses referred to in subsection (4)(a).

(4) The CEO must —

(a) withdraw from the Racing Bets Levy Account, at monthly intervals, a sum approved by the Minister for outgoings and expenses incurred by the Department in administering the Account; and

(b) pay or credit, at prescribed intervals, the balance of that Account in accordance with subsection (5).

(5) The Department must pay or credit the balance of the Racing Bets Levy Account to —

(a) RWWA; or

(b) the following clubs, in the amounts determined by the Minister —

(i) thoroughbred racing clubs registered with RWWA;

(ii) harness racing clubs registered with RWWA;

(iii) greyhound racing clubs registered with RWWA.

[Section 110B inserted: No. 29 of 2009 s. 20; amended: No. 53 of 2024 s. 67.]

110C. Provision of information to Commission

(1) In this section —

relevant information means information relating to the performance of the following functions —

(a) the administration of the Gaming Community Trust Account under section 109C;

(b) the functions of the Gaming Community Trust under section 109D;

(c) the administration of the Sports Wagering Account under section 110A;

(d) the administration of the Racing Bets Levy Account under section 110B.

(2) This section applies to —

(a) the Department; and

(b) the Sport and Recreation Department.

(3) The chief executive officer of a department to which this section applies may provide relevant information to the Commission if satisfied it is reasonably necessary for the purposes of enabling or assisting the Commission or the department in the performance of its functions under this Act or the *Betting Control Act 1954*.

[Section 110C inserted: No. 53 of 2024 s. 68.]

110D. Delegation by CEO

(1) The CEO may delegate a power or duty of the CEO under another provision of this Act to —

(a) an officer of the Department; or

(b) a person or class of persons authorised for the purposes of this section by the regulations.

(2) The delegation must be in writing signed by the CEO.

(3) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(4) Nothing in this section limits the ability of the CEO to perform a function through an officer or agent.

[Section 110D inserted: No. 53 of 2024 s. 68.]

111. Burswood Casino Agreement cl. 22, when Commission may decide questions as to

In relation to the Agreement to which the *Casino (Burswood Island) Agreement Act 1985* refers, any question arising from the operation of clause 22 of that Agreement or as to any condition relating to the playing of bingo to which paragraph (a)(iii) of Schedule A to that Agreement refers may be determined by the Commission with the consent of —

(a) the Trustee referred to in that Agreement; or

(b) where the Commission alleges that the proviso referred to in clause 35(1) of that Agreement has been contravened, a judge in chambers.

112. Transitional provisions as to *Casino Control Act 1984*

(1) On and after the coming into operation of section 4 the body corporate hitherto constituted under the *Casino Control Act 1984* and known as the Casino Control Committee is preserved as a body corporate continuing in existence under and subject to this Act but the corporate identity of that body shall be taken to have been merged with that of the Commission, the powers, duties, rights and obligations of the Casino Control Committee being thereafter, without further assurance than this Act, vested in or imposed on the Commission.

(2) A reference to the Casino Control Committee —

(a) in any written law passed or made; or

(b) in any Agreement entered into, or other document made; or

(c) made in any other manner,

before the coming into operation of section 4 shall, unless the context is such that it would be inappropriate so to do, be read and construed as a reference to the Commission.

[Section 112 amended: No. 24 of 1998 s. 70.]

*[**113.** Deleted: No. 16 of 1990 s. 33.]*

*[**114.** Deleted: No. 24 of 1998 s. 71.]*

*[**115.** Deleted: No. 35 of 2003 s. 164.]*

*[**116.** Omitted under the Reprints Act 1984 s. 7(4)(e).]*

117. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, and, in particular —

(a) for securing that gaming in respect of which a permit is for the time being in force is fairly and properly conducted; and

(b) for the prevention of fraud, cheating or corruption; and

(c) for preventing the use of any indirect means for doing anything which, if done directly, would be a contravention of this Act; and

(d) for the protection of the revenue of the Commission; and

(e) for regulating (including prohibiting advertisements of a type that are not in the public interest) the content of advertisements that convey, or are likely to be

understood as conveying, the existence (in this State or elsewhere) of —

(i) a person referred to in section 43A(3)(a) to (da); or

(ii) a person or class of person prescribed under section 43A(3)(d);

and

(f) for making provision for giving effect to specified national policies (that is, policies or agreements to which the State and at least 1 other Australian jurisdiction are parties), to the extent to which the policies relate to the purposes of this Act.

[Section 117 amended: No. 35 of 2003 s. 165; No. 29 of 2009 s. 21; No. 53 of 2024 s. 69.]

Part 7 — Transitional provisions for *Gambling Legislation Amendment Act 2024*

[Heading inserted: No. 53 of 2024 s. 70.]

118. Term used: commencement day

In this Part —

commencement day means the day on which the *Gambling Legislation Amendment Act 2024* section 70 comes into operation.

[Section 118 inserted: No. 53 of 2024 s. 70.]

119. Application of *Interpretation Act 1984*

This Part does not limit the operation of the *Interpretation Act 1984*.

[Section 119 inserted: No. 53 of 2024 s. 70.]

120. Infringement notices

(1) A certificate issued to an authorised person under the *Casino Control Act 1984* section 29G(2) that was in effect immediately before commencement day is, for the period of 3 months commencing on commencement day, taken to state that the person is an authorised officer.

(2) Subsection (3) applies to an infringement notice served under section 36 of this Act or under the *Casino Control Act 1984* Part VB that, immediately before commencement day, had not been withdrawn.

(3) The *Criminal Procedure Act 2004* Part 2, as modified by section 36 of this Act (as in force after commencement day), applies to and in relation to the infringement notice as if it had been served under that Part.

[Section 120 inserted: No. 53 of 2024 s. 70.]

121. Gaming Community Trust Account and Racing Bets Levy Account

(1) The amount in the Gaming Community Trust Account administered by the Commission under section 109C immediately before commencement day is, on commencement day, transferred to the Gaming Community Trust Account administered by the Department under section 109C.

(2) The amount in the Racing Bets Levy Account administered by the Commission under section 110B immediately before commencement day is, on commencement day, transferred to the Racing Bets Levy Account administered by the Department under section 110B.

(3) An approval of the Minister under section 109C(2) before commencement day to apply an amount for a purpose from the Gaming Community Trust Account must, if the amount is not paid before commencement day, be given effect by the Department under section 109C.

(4) A determination of the Commission under section 110B(5) before commencement day to pay or credit an amount from the Racing Bets Levy Account must, if the amount is not paid before commencement day, be given effect by the Department under section 110B.

[Section 121 inserted: No. 53 of 2024 s. 70.]

122. Sports Wagering Account

(1) The amount in the Sports Wagering Account administered by the Commission under section 110A immediately before commencement day is, on commencement day, transferred to the Sports Wagering Account administered by the Sport and Recreation Department under section 110A.

(2) A direction of the Minister under section 110A(5) before commencement day to apply an amount for a purpose from the Sports Wagering Account must, if the amount is not paid before

commencement day, be given effect by the Sport and Recreation Department under section 110A.

[Section 122 inserted: No. 53 of 2024 s. 70.]

123. Transitional regulations

(1) The regulations may deal with all matters of a transitional, savings or application nature arising as a result of the enactment of the *Gambling Legislation Amendment Act 2024* Part 5.

(2) Regulations made for the purposes of this section may provide that a specified state of affairs is taken to have existed, or not to have existed, on and after a day that is earlier than the day on which the regulations are published in accordance with the *Interpretation Act 1984* section 41(1)(a).

(3) If the regulations contain a provision referred to in subsection (2), the provision does not operate so as to —

(a) affect in a manner prejudicial to any person (other than the State or a public authority) the rights of that person existing before the day of publication of those regulations; or

(b) impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the day of publication of those regulations.

(4) Regulations made for the purposes of this section must be made within the period that is reasonably necessary to deal with the transitional, savings or application matters dealt with.

[Section 123 inserted: No. 53 of 2024 s. 70.]

Notes

This is a compilation of the *Gaming and Wagering Commission Act 1987* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Gaming Commission Act 1987 [1]	50 of 1987	8 Oct 1987	s. 1 and 2: 8 Oct 1987; s. 3, Pt. II, V Div. 2 and s. 111, 112, 115-117: 4 Mar 1988 (see s. 2 and *Gazette* 4 Mar 1988 p. 665); Act other than Pt. I, II, V Div. 2 and s. 111, 112 and 115-117: 2 May 1988 (see s. 2 and *Gazette* 29 Apr 1988 p. 1291)
Acts Amendment (Totalisator Agency Board Betting) Act 1987 Pt. III	125 of 1987	31 Dec 1987	25 Mar 1988 (see s. 2 and *Gazette* 25 Mar 1988 p. 933)
Lotteries Commission Act 1990 s. 31(3) and 33	16 of 1990	31 Jul 1990	1 Jan 1991 (see s. 2 and *Gazette* 28 Dec 1990 p. 6369)
Financial Administration Legislation Amendment Act 1993 s. 11 and 15	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Acts Amendment (Public Sector Management) Act 1994 s. 19	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and *Gazette* 30 Sep 1994 p. 4948)
Sentencing (Consequential Provisions) Act 1995 s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and *Gazette* 25 Oct 1996 p. 5632)
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Financial Legislation Amendment Act 1996 s. 55 and 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))

Reprint of the *Gaming Commission Act 1987* as at 5 May 1997 (includes amendments listed above) (correction in *Gazette* 6 Jun 1997 p. 2644)

Short title	Number and year	Assent	Commencement
Acts Amendment (Gaming) Act 1998 Pt. 3	24 of 1998	30 Jun 1998	5 Aug 1998 (see s. 2 and *Gazette* 4 Aug 1998 p. 3981)
Lotteries Commission Amendment Act 1998 s. 23	26 of 1998	30 Jun 1998	22 Jul 1998 (see s. 2 and *Gazette* 21 Jul 1998 p. 3825)
Reprint of the *Gaming Commission Act 1987* as at 30 Oct 1998 (includes amendments listed above)			
Acts Amendment (Continuing Lotteries) Act 2000 Pt. 3 [2]	6 of 2000 (as amended by No. 45 of 2002 s. 6)	11 Apr 2000	1 Jul 2000 (see s. 2 and *Gazette* 23 Jun 2000 p. 3191)
Statutes (Repeals and Minor Amendments) Act 2000 s. 52	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Corporations (Consequential Amendments) Act 2001 Pt. 27	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and *Gazette* 29 Jun 2001 p. 3257 and Cwlth *Gazette* 13 Jul 2001 No. S285)
Taxation Administration (Consequential Provisions) Act 2002 s. 13	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2(1) and *Gazette* 27 Jun 2003 p. 2383)
Racing and Gambling Legislation Amendment and Repeal Act 2003 Pt. 9 Div. 1 [3]	35 of 2003	26 Jun 2003	s. 132(1) and (2), 151-154, 163-164: 1 Aug 2003 (see s. 2 and *Gazette* 29 Jul 2003 p. 3259); s. 120-131, 132(3), 133-150, 155-162 and 165-168: 30 Jan 2004 (see s. 2 and *Gazette* 30 Jan 2004 p. 397)
Sentencing Legislation Amendment and Repeal Act 2003 s. 66	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and *Gazette* 14 May 2004 p. 1445)
Reprint 3: The *Gaming and Wagering Commission Act 1987* as at 3 Sep 2004 (includes amendments listed above)			
Courts Legislation Amendment and Repeal Act 2004 s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128)
Criminal Law Amendment (Simple Offences) Act 2004 s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and *Gazette* 14 Jan 2005 p. 163)

Short title	Number and year	Assent	Commencement
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction in *Gazette* 7 Jan 2005 p. 53))
Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and *Gazette* 21 Mar 2006 p. 1078)
Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 16 Div. 1	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and *Gazette* 27 Jun 2006 p. 2347)
Reprint 4: The *Gaming and Wagering Commission Act 1987* as at 18 Aug 2006 (includes amendments listed above)			
Criminal Investigation (Consequential Provisions) Act 2006 Pt. 9	59 of 2006	16 Nov 2006	1 Jul 2007 (see s. 2 and *Gazette* 22 Jun 2007 p. 2838)
Betting and Racing Legislation Amendment Act 2006 s. 9(2)	70 of 2006	13 Dec 2006	9 Jul 2007 (see s. 2 and *Gazette* 22 Jun 2007 p. 2837)
Liquor and Gaming Legislation Amendment Act 2006 Pt. 3 and s. 114	73 of 2006	13 Dec 2006	s. 114: 7 May 2007 (see s. 2(2) and *Gazette* 1 May 2007 p. 1893); Pt. 3: 14 Jun 2008 (see s. 2(2) and *Gazette* 13 Jun 2008 p. 2515)
Financial Legislation Amendment and Repeal Act 2006 s. 4 and Sch. 1 cl. 71	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Racing, Wagering and Betting Legislation Amendment and Repeal Act 2007 Pt. 3	8 of 2007	13 Jun 2007	14 Jun 2007 (see s. 2)
Reprint 5: The *Gaming and Wagering Commission Act 1987* as at 2 Nov 2007 (includes amendments listed above except those in the *Liquor and Gaming Legislation Amendment Act 2006* Pt. 3)			
Duties Legislation Amendment Act 2008 Sch. 1 cl. 9	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))

Short title	Number and year	Assent	Commencement
Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 63	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
Racing and Wagering Legislation Amendment Act 2009 Pt. 3	29 of 2009	23 Nov 2009	11 Jan 2010 (see s. 2(b) and *Gazette* 8 Jan 2010 p. 9-10)
Public Sector Reform Act 2010 s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and *Gazette* 5 Nov 2010 p. 5563)
Casino (Burswood Island) Agreement Amendment Act 2011 Pt. 3	25 of 2011	11 Jul 2011	12 Jul 2011 (see s. 2(b))
Reprint 6: The *Gaming and Wagering Commission Act 1987* as at 16 Dec 2011 (includes amendments listed above)			
Mental Health Legislation Amendment Act 2014 Pt. 4 Div. 4 Subdiv. 12	25 of 2014	3 Nov 2014	30 Nov 2015 (see s. 2(b) and *Gazette* 13 Nov 2015 p. 4632)
Corruption and Crime Commission Amendment (Misconduct) Act 2014 s. 39	35 of 2014	9 Dec 2014	1 Jul 2015 (see s. 2(b) and *Gazette* 26 Jun 2015 p. 2235)
Associations Incorporation Act 2015 s. 217	30 of 2015	2 Nov 2015	1 Jul 2016 (see s. 2(b) and *Gazette* 24 Jun 2016 p. 2291-2)
Public Health (Consequential Provisions) Act 2016 s. 101	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and *Gazette* 10 Jan 2017 p. 165)
Betting Tax Assessment Act 2018 Pt. 8 Div. 2 Subdiv. 2	37 of 2018	12 Dec 2018	1 Feb 2019 (see s. 2(b) and *Gazette* 25 Jan 2019 p. 193)
Gaming and Wagering Legislation Amendment Act 2018 Pt. 3	41 of 2018	12 Dec 2018	1 Feb 2019 (see s. 2(b) and *Gazette* 25 Jan 2019 p. 193-4)
TAB (Disposal) Act 2019 s. 89(2) and 93	21 of 2019	18 Sep 2019	19 Sep 2019 (see s. 2(1)(c))
Casino Legislation Amendment (Burswood Casino) Act 2022 Pt. 3	32 of 2022	28 Sep 2022	29 Sep 2022 (see s. 2(b))

Short title	Number and year	Assent	Commencement
Directors' Liability Reform Act 2023 Pt. 3 Div. 30 (other than s. 80)	9 of 2023	4 Apr 2023	5 Apr 2023 (see s. 2(h)(ii) and (j))
Gambling Legislation Amendment Act 2024 Pt. 5	53 of 2024	6 Dec 2024	Pt. 5 (other than s. 49): 7 Dec 2024 (see s. 2(d)); s. 49: 6 Feb 2025 (see s. 2(c) and SL 2025/27 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Public Health (Consequential Provisions) Act 2016 Pt. 5 Div. 8	19 of 2016	25 Jul 2016	To be proclaimed (see s. 2(1)(c))
TAB (Disposal) Act 2019 s. 86-88, 89(1), 90-92 and 94-104	21 of 2019	18 Sep 2019	To be proclaimed (see s. 2(1)(b) and (2))
Directors' Liability Reform Act 2023 s. 80	9 of 2023	4 Apr 2023	When the *TAB (Disposal) Act 2019* s. 99 comes into operation (see s. 2(h)(ii))

Other notes

[1] Now known as the *Gaming and Wagering Commission Act 1987*; short title changed (see note under s. 1).

[2] The *Acts Amendment (Continuing Lotteries) Act 2000* Pt. 4 (as amended by the *Taxation Administration (Consequential Provisions) Act 2002* s. 6) contains savings and transitional provisions.

[3] The *Racing and Gambling Legislation Amendment and Repeal Act 2003* Pt. 9 Div. 2 reads as follows:

Part 9 — *Gaming Commission Act 1987* amended, transitional and savings provisions and consequential amendments

Division 2 — Transitional and savings provisions

169. Gaming and Wagering Commission

(1) The body renamed as the Gaming and Wagering Commission by section 124 is the same body as the Gaming Commission previously established under section 4 of the *Gaming Commission Act 1987*.

(2) The account renamed as the Gaming and Wagering Commission Account by section 128 is the same account as the Gaming Commission Account previously referred to in section 9 of the *Gaming Commission Act 1987*.

(3) If, in a written law or in a document of any kind there is a reference to the Gaming Commission, that reference is, unless because of the context it would be inappropriate to do so, to be read and construed as if it had been amended to be a reference to the Gaming and Wagering Commission.

170. Members of the Commission

Each person holding office as a member of the Gaming Commission under the *Gaming Commission Act 1987* immediately before the coming into operation of this section continues in office as a member of the Gaming and Wagering Commission under and subject to the *Gaming and Wagering Commission Act 1987* until the expiry of the term of office.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
appointed member	109D(9)
approval	43A(4)
approved	3(1)
approved premises	3(1)
authorised officer	3(1)
authorised person	85(6)
banking day	63(4)
batch	101(1)
bingo	94(1)
books	3(1)
cards	94(2)
casino	3(1)
casino complex agreement	3(1)
CEO	3(1)
certificate	3(1)
charitable organisation	94(1)
Chief Casino Officer	16(4)
closing date	101(1)
club	94(1)
commencement day	118
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compliant guarantee	101(1)
condition	3(1)
conduct	3(1)
conducting	101(1)
confidential police information	20A(1)
continuing lotteries levy	3(1)
continuing lottery	101(1)
credit card	3(1)
date of drawing	101(1)
debit card	3(1)
Department	3(1)
drawing	101(1)
employing authority	18(2a)
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face value	101(1)
foreign lottery	101(1)
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