

WESTERN AUSTRALIA

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**ACTS AMENDMENT (GAMING)  
ACT 1998**

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**No. 24 of 1998**

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**AN ACT to amend the *Casino Control Act 1984* and *Gaming Commission Act 1987*, and for related purposes.**

*[Assented to 30 June 1998.]*

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Acts Amendment (Gaming) Act 1998*.

**Commencement**

2. This Act comes into operation on such day as is fixed by proclamation.

**PART 2 — CASINO CONTROL ACT 1984**

**Principal Act**

3. In this Part the *Casino Control Act 1984*\* is referred to as the principal Act.

[\* Reprinted as at 18 April 1989.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 29.]*

**Section 3 amended, and consequential amendments**

4. (1) Section 3 (1) of the principal Act is amended —

(a) by deleting the definition of “casino inspector”;

(b) by inserting after the definition of “game” the following definitions —

“

“**gaming operations**”, in relation to a casino, means —

(a) the conduct and playing of games in the casino;

(b) the management, supervision or surveillance of the conduct and playing of games in the casino;

(c) money counting, accounting or advertising in relation to the conduct and playing of games in the casino;

(d) the use of storage areas in relation to the conduct and playing of games in the casino; or

s. 4

(e) any other activities incidental to or connected with —

(i) the conduct and playing of games; or

(ii) the provision of facilities or services in relation to the conduct and playing of games,

in the casino;

**“government inspector”** means a government inspector appointed for the purposes of section 9 (1);

”;

(c) by deleting the semicolon at the end of the definition of “the Commission” and substituting a full stop; and

(d) by deleting the definition of “the Committee”.

(2) Section 3 (2) of the principal Act is amended by deleting “or “token” ” and substituting the following —

“ , “token” and “winnings” ”.

(3) Section 3 (3) of the principal Act is amended —

(a) by deleting “casino inspector” and substituting the following —

“ government inspector ”; and

(b) by inserting after “section 9, and any” the following —

“ other ”.

**Section 4 repealed**

5. Section 4 of the principal Act is repealed.

**Section 9 amended, and transitional provision**

6. (1) Section 9 (1) of the principal Act is amended by deleting “casino inspectors” and substituting the following —

“ government inspectors ”.

(2) A person appointed and holding office as a casino inspector under section 9 (1) of the principal Act immediately before the coming into operation of subsection (1) continues, subject to the principal Act, to hold office as a government inspector for the remainder of the period that, if not for that subsection, the person would have held office as a casino inspector.

**Sections 10 and 11 inserted**

7. After section 9 of the principal Act the following sections are inserted —

“

**Protection from liability**

10. (1) An action in tort does not lie against a person who is an officer of the Commission for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act or any other Act or a casino complex agreement.

(2) If this section provides that an action does not lie against a person for doing anything, the Crown is also relieved of any liability that it might otherwise have for the doing of the thing by the person.

(3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act or any other Act or a casino complex agreement may have been capable of being done whether or not, as the case requires —

- (a) this Act or any other Act had been enacted; or
- (b) the casino complex agreement had been entered into.

(4) In this section —

- (a) a reference to the doing of anything includes a reference to the omission to do anything; and
- (b) a reference to the performance of a function includes a reference to the performance of a duty and the exercise of a power.

### **Delegation**

**11.** (1) The Chief Casino Officer may with the approval of the Commission, by instrument in writing, delegate to another officer of the Commission the exercise or performance of any of the powers, functions or duties of the Chief Casino Officer under this Act or any other Act or a casino complex agreement, other than —

- (a) this power of delegation; or
- (b) a power or duty of the Commission delegated to the Chief Casino Officer under section 16 of the *Gaming Commission Act 1987*.

(2) A delegation may be general or as otherwise provided by the instrument of delegation.

”.

**Section 12 repealed**

**8.** Section 12 of the principal Act is repealed.

**Section 13 amended**

**9.** Section 13 (a) of the principal Act is amended by deleting “purposes, when required for the purposes of any investigation;” and substituting the following —

“ purposes; ”.

**Section 14 amended**

**10.** (1) Section 14 (1) (b) of the principal Act is amended by deleting “Committee” and substituting the following —

“ Casino Control Committee ”.

(2) Section 14 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) The funds referred to in subsection (1) shall be, as the case requires —

(a) credited to the account referred to in section 9 (2) (a) of the *Gaming Commission Act 1987*; or

(b) paid into and placed to the credit of the account referred to in section 9 (2) (b) of that Act.

”.

**Section 15 inserted, and transitional**

**11.** (1) After section 14 of the principal Act the following section is inserted in Part II —

“

**Unclaimed winnings**

**15.** (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 and playing of gaming operations at a licensed casino and are not claimed within 12 months after the right to be paid them first arises (“**unclaimed winnings**”), the casino licensee shall notify the Commission in writing, when directed by the Commission to do so, of —

- (c) details of the unclaimed winnings;
- (d) the name and address, if known, of the person entitled to be paid the unclaimed winnings (“**the winner**”); and
- (e) details of any steps taken by the casino licensee to find and contact the winner.

(2) On being notified of unclaimed winnings under subsection (1), the Commission may give directions to the casino licensee to take specified steps, or specified additional steps, 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 of the *Gaming Commission Act 1987*.

(4) The Commission may give directions to the casino licensee 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 of the *Gaming Commission Act 1987*.

(5) It is a condition of a casino gaming licence that the casino licensee complies with any direction given to the casino licensee under this section.

(6) In this section —

**“unclaimed winnings”** includes any stake hazarded or bet placed that is repayable with the unclaimed winnings.

”.

(2) The provisions of section 15 of the principal Act, as amended by subsection (1), apply to unclaimed winnings —

- (a) where the right to be paid the winnings has arisen before the day on which this Act comes into operation; and
- (b) that are held on trust by a casino licensee on that day,

and the 12 months period referred to in section 15 (1) of the principal Act, as amended by subsection (1), is taken to begin on that day.

**Section 18 inserted**

**12.** Before section 19 of the principal Act the following section is inserted in Part III —

“ **Meaning of “close associate”**

**18.** (1) For the purposes of this Part, a person is a “**close associate**” of a public company with which the Minister has entered into, or is proposing to enter into, a casino complex agreement if the person —

- (a) holds any relevant financial interest in, or is entitled to exercise any relevant power with respect to, the public company, whether in the person’s own right or on behalf of any other person, and by virtue of that interest or power is or will be able, in the opinion of the Commission, to exercise a significant influence over or with respect to the organization and conduct of the gaming operations of the licensed casino with which the casino complex agreement is concerned; or
- (b) holds any relevant position, whether in the person’s own right or on behalf of any other person, in the public company.

(2) In this section —

**“relevant financial interest”** means —

- (a) any share in the capital of the public company; or
- (b) any entitlement to receive any income derived from the public company;

**“relevant position”** means the position of director, manager or other executive position or secretary, however that position is designated;

**“relevant power”** means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others —

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

”.

### **Section 19 amended**

**13.** Section 19 (2) of the principal Act is repealed and the following subsections are substituted —

“

(1a) The Commission shall, before the Minister enters into a casino complex agreement with a public company, carry out such investigations as it considers necessary or desirable for the purposes of that casino complex agreement and for the purposes of satisfying itself that the public company, and each close associate of the public company, is a suitable person to be concerned in or associated with the organization and conduct of the gaming operations of a licensed casino.

**s. 13**

(2) Without limiting the matters that may be investigated by the Commission under subsection (1a), investigations made under that subsection shall include such investigations as the Commission considers necessary or desirable to inform itself of —

- (a) the reputation and financial status of the public company and each close associate of the public company, and the financial status or proposed financial status and the structure of any trust or proposed trust of which the public company, or a close associate of the public company, is or may become the promoter or founder or trustee;
- (b) the reputation, financial status, and capacity to be concerned in or associated with the organization and conduct of the gaming operations of a licensed casino, of —
  - (i) each natural person; and
  - (ii) each director or other member of the governing body of, and each principal officer of, a body corporate,

intended by the public company, or believed by the Commission, to be concerned in or associated with the organization and conduct of the gaming operations of the licensed casino with which the casino complex agreement is concerned; and

- (c) such other matters as may be prescribed.

”.

**Sections 19A and 19B inserted**

**14.** After section 19 of the principal Act the following sections are inserted —

“

**Notice to be given of proposal to exercise power under section 19B**

**19A.** (1) If the Minister is of the opinion that the power conferred on the Minister under section 19B (1) should be exercised in respect of a person, the Minister shall cause to be served on the person 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 that the Minister proposes to exercise the power; and
- (b) requiring each person served with the notice to show cause in writing within a period of 14 days after the date of that service why that power should not be exercised.

(2) A person served with a notice under subsection (1) may, within the period referred to in that subsection, serve on the Minister submissions in writing showing cause why the power conferred on the Minister under section 19B (1) should not be exercised.

(3) After receiving and considering any submissions served under subsection (2) within the period referred to in subsection (1) or, if no submission is so served, within a period of 21 days after having caused the relevant notice, or the later or last of the relevant notices, as the case requires, to be served under subsection (1), the Minister may exercise the power conferred on the Minister under section 19B (1).

**s. 14**

**Close associate may be required to dispose of shares, etc.**

**19B.** (1) If the Minister determines, on the advice of the Commission, that a person that is a close associate of a public company —

- (a) with which the Minister has entered into a casino complex agreement; or
- (b) that is a casino licensee,

is not, or is no longer, a suitable person to be concerned in or associated with the gaming operations of a licensed casino, the Minister may cause to be served on the person a notice in writing requiring the person to dispose of any shares, units or other interest, as specified in the notice and within the period so specified, by virtue of which the person is a close associate of the public company.

(2) A person served with a notice under subsection (1) shall comply with the notice.

Penalty: \$30 000.

(3) A report of a determination by the Minister under subsection (1) shall be included in the annual report submitted by the accountable authority of the Commission under section 66 of the *Financial Administration and Audit Act 1985*.

”.

**Section 21 amended**

**15.** (1) After section 21 (4b) of the principal Act the following subsection is inserted —

“

(4c) Without limiting subsection (4a), the area to which a casino gaming licence relates may be fixed or altered under that subsection for specified purposes relating to the conduct and playing of one or more specified authorized games in one or more specified areas of the relevant casino complex.

”.

(2) Section 21 (6) of the principal Act is amended by inserting before the definition of “the preliminary requirements” the following definition —

“

“**specified**”, in relation to a notice under subsection (4a), means specified in the notice;

”.

**Section 21A amended**

**16.** (1) Section 21A (2) of the principal Act is amended —

(a) by deleting “the Chief Casino Officer, or a casino inspector” and substituting the following —

“ or an officer of the Commission, ”; and

(b) in paragraph (a), by inserting after “by notice in writing” the following —

“ or, if the urgent or otherwise special nature of the circumstances makes it necessary, by notice given orally,

”.

**s. 17**

(2) Section 21A (5) of the principal Act is amended by inserting after “arrange the inquiry” the following —

“ and a report on the findings of the inquiry ”.

(3) Section 21A (9) of the principal Act is repealed and the following subsection is substituted —

“

(9) For the purposes of an inquiry carried out at the direction of the Minister under subsection (5), the person carrying out the inquiry has the powers of a Royal Commission and the chairman of a Royal Commission, whether under the *Royal Commissions Act 1968* or otherwise, and the provisions of that Act 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 21B amended**

17. (1) Section 21B (3) of the principal Act is amended —

(a) by inserting before paragraph (a) the following paragraph —

“

(aa) serve a letter of censure on the casino licensee concerned;

”;

(b) by deleting “or” after paragraph (a);

(c) by deleting the full stop at the end of paragraph (b) and substituting the following —

“ ; or ”; and

- (d) by inserting after paragraph (b) the following paragraph —

“

- (c) with the prior approval of the Governor, order the casino licensee concerned to pay a monetary penalty fixed by the Minister but not exceeding \$100 000.

”.

- (2) After section 21B (4) of the principal Act the following subsections are inserted —

“

- (5) The Minister may recover a penalty imposed under subsection (3) (c) in a court of competent jurisdiction as a debt due by the casino licensee concerned to the Crown.

- (6) A certificate signed by the Minister specifying the amount of a 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 23 amended**

- 18.** (1) Section 23 (2) (i) of the principal Act is deleted and the following paragraph is substituted —

“

- (i) who is a member of the Commission or the Chief Casino Officer, a government inspector or other officer appointed under section 9 (1);

”.

**s. 19**

(2) After section 23 (2a) of the principal Act the following subsection is inserted —

“

(2b) If a court convicts a person of an offence under subsection (2), the court shall, on the application of the complainant and in addition to any other penalty imposed under that subsection, order the forfeiture to the Crown of any winnings paid to the person as a result of the commission of the offence.

”.

**Section 24 amended**

**19.** (1) Section 24 (1) of the principal Act is repealed and the following subsections are substituted —

“

(1) Subject to regulations made under section 37, the Commission may give directions to a casino licensee with respect to the system of internal controls and administrative and accounting procedures that apply to the gaming operations of the casino licensee.

(1a) A direction may be amended from time to time by the Commission as the Commission thinks fit.

(1b) A direction or an amendment of a direction has effect when written notice of it is given to the casino licensee concerned or on a later date specified in the notice.

(1c) The 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.

”.

(2) Section 24 (2) of the principal Act is amended by deleting “casino gaming” and substituting the following —

“ gaming ”.

(3) After section 24 (4) of the principal Act the following subsection is inserted —

“

(5) It is a condition of a casino gaming licence that the casino licensee complies with any direction given to the casino licensee under this section.

”.

### **Section 25 amended**

**20.** Section 25 (1) of the principal Act is amended by deleting “casino gaming” and substituting the following —

“ gaming ”.

### **Section 25A inserted**

**21.** After section 25 of the principal Act the following section is inserted —

“

#### **Junkets and junket operators**

**25A.** (1) Regulations made under section 37 may make provision for or with respect to regulating or prohibiting —

- (a) the conduct of junkets; and
- (b) the offering to persons of inducements, whether in the form of rebates or commissions or otherwise, to conduct or participate in junkets.

(2) Without limiting subsection (1), the regulations may —

- (a) impose restrictions on who may conduct junkets or offer inducements;
- (b) require a person to be approved by the Commission before the person may conduct junkets;
- (c) require a person to provide information and documents to the Commission, including photographs, fingerprints and palm prints, for the purposes of being approved by the Commission to conduct junkets;
- (d) require the person who conducts a junket, or a casino licensee, to give advance notice of the junket to the Commission and to provide to the Commission detailed information concerning the conduct of, and the arrangements for the conduct of, the junket;
- (e) require any contract or other agreement that relates to the conduct of a junket or the offer of an inducement to be in a form, and contain provisions, approved by the Commission; and
- (f) require the person who conducts a junket, or a casino licensee, to give specified information concerning the conduct of the junket to participants in the junket.

(3) In this section —

**“junket”** means any arrangement for the promotion of gaming in a licensed casino by groups of persons, usually involving —

- (a) payment by the casino licensee of a commission to the person who conducts the junket; and

- (b) arrangements for the provision of transport, accommodation, food, drink and entertainment for the participants in the arrangements, some or all of which are paid for by the casino licensee or are otherwise provided on a complimentary basis.

”.

**Section 26 amended**

**22.** (1) Section 26 (2) of the principal Act is amended by deleting “his authority” and substituting the following —

“ the licensee’s authority ”.

(2) Section 26 (4) (a) of the principal Act is deleted and the following paragraph is substituted —

“

(a) the casino licensee concerned or a person acting under the licensee’s authority remains in force until it is revoked —

(i) by that casino licensee; or

(ii) by a determination of the Commission under subsection (5) of section 26A, notification of which has been given in accordance with that subsection;

”.

(3) Section 26 (6) of the principal Act is amended by deleting the penalty provision at the foot of the subsection and substituting the following penalty provision —

“ Penalty: \$1 000. ”.

(4) Section 26 (7) of the principal Act is amended by deleting the penalty provision at the foot of the subsection and substituting the following penalty provision —

“ Penalty: \$5 000. ”.

**Section 26A inserted**

**23.** After section 26 of the principal Act the following section is inserted —

“

**Review by Commission of direction given by casino licensee, etc.**

**26A.** (1) A person (“**the applicant**”) who is given a direction under section 26 (2) by the casino licensee concerned or a person acting under the licensee’s authority may apply to the Commission to review the direction.

(2) A direction that is reviewed under this section remains in force during the period of the review.

(3) An application made under subsection (1) shall be —

(a) in writing, setting out the grounds of the application; and

(b) accompanied by the prescribed fee, if any.

(4) The applicant shall provide to the Commission any further information that the Commission reasonably requires for a proper review of the direction concerned.

(5) After considering the application, any further information provided by the applicant under subsection (4) and any other matter that, in the opinion of the

Commission, is necessary for a proper review of the direction concerned, the Commission shall determine —

- (a) to confirm the direction; or
- (b) to revoke the direction,

and shall give notification in writing of that determination to the applicant and casino licensee concerned.

”.

**Section 27 amended**

**24.** (1) Section 27 (1) of the principal Act is amended —

- (a) by inserting after “gaming operations of the” the following —

“ licensed ”; and

- (b) by deleting the penalty provision at the foot of the subsection and substituting the following penalty provision —

“ Penalty: \$5 000. ”.

(2) After section 27 (1) of the principal Act the following subsection is inserted —

“

(1a) A casino licensee and any other person concerned in the organization or management of the gaming operations of the licensed casino concerned shall ensure that no person under the age of 18 years is permitted to participate in gaming in that casino.

Penalty: \$5 000.

”.

(3) Section 27 (2) of the principal Act is amended —

(a) by inserting after “subsection (1)” the following —

“ or (1a) ”; and

(b) by inserting after “licensed casino concerned” the following —

“  
 , or participating in gaming in that casino, as the  
 case requires,  
 ”.

(4) Section 27 (3) of the principal Act is amended by deleting the penalty provision at the foot of the subsection and substituting the following penalty provision —

“  
 Penalty: For a first offence, \$500; for a second or  
 subsequent offence, \$1 000.  
 ”.

(5) After section 27 (3) of the principal Act the following subsections are inserted —

“  
 (3a) A person under the age of 18 years shall not  
 participate in gaming in a licensed casino.

Penalty: \$1 000.

(3b) If a court convicts a person of an offence under subsection (3a), the court shall, on the application of the complainant and in addition to any other penalty imposed under that subsection, order the forfeiture to the Crown of any winnings paid to the person as a result of the commission of the offence.  
 ”.

**Section 27A inserted**

**25.** After section 27 of the principal Act the following section is inserted —

“  
**Persons suspected of being under 18 years may be required to produce evidence of age**

**27A.** (1) If an authorized person suspects on reasonable grounds that a person (who is not a person to whom section 27 (4) applies) in a licensed casino is under the age of 18 years, the authorized person may require the person to state his or her age.

(2) If the stated age appears to the authorized person to be false, the authorized person may require the person —

- (a) to produce evidence of his or her age; or
- (b) if the person is unable or refuses to produce such evidence, to leave the licensed casino.

(3) If a person fails to comply with a requirement under subsection (2) (b), an authorized person may with the use of reasonable force remove the person from the licensed casino.

(4) A person who —

- (a) in response to a requirement under subsection (2) (a), makes a statement, or produces a document or another form of evidence, that is false or misleading in any material respect; or
- (b) fails, without reasonable excuse, to comply with a requirement under subsection (2) (b),

commits an offence.

Penalty: \$1 000.

(5) In this section —

**“authorized person”** means —

- (a) the casino licensee concerned or a person acting under the licensee’s authority;
- (b) an officer of the Commission; or
- (c) a member of the Police Force.

”.

**Section 29 amended**

**26.** Section 29 (1) of the principal Act is amended by deleting “casino gaming” and substituting the following —

“ gaming ”.

**Parts VA and VB inserted**

**27.** After Part V of the principal Act the following Parts are inserted —

“

**PART VA — CONTROLLED CONTRACTS**

**Interpretation**

**29A.** In this Part —

**“contract”** includes any kind of agreement or arrangement;

“**controlled contract**” means a contract —

- (a) that relates wholly or partly to the supply of goods or services to a licensed casino or to any other matter that is prescribed as a controlled matter for the purposes of this definition; and
- (b) that provides for the payment, or receipt, by a party to the contract of an amount that exceeds, or amounts that together exceed, the amount that is determined from time to time by the Commission for the purposes of this definition and published by notice in the *Gazette*,

but does not include —

- (c) a contract that relates solely to the construction of a casino or to the alteration of premises used or to be used as a casino;
- (d) a casino complex agreement;
- (e) a lease; or
- (f) a contract of a class that is prescribed as exempt from this definition.

### **Requirements for controlled contracts**

**29B.** (1) A casino licensee shall not enter into or become a party to a controlled contract, or the variation of a controlled contract, relating to the licensed casino concerned unless —

- (a) the casino licensee has given to the Commission notice in writing of the details of the proposed contract or variation of contract (“**the contract notice**”); and

(b) the Commission has not objected to the proposed contract or variation of contract by notice in writing given to the casino licensee during the period for investigation that the Commission is allowed under this section.

(2) The Commission is allowed 60 days for investigation after the contract notice is given to the Commission, but, subject to subsections (3) and (4), that period may be shortened or extended in a particular case by the Commission by giving notice in writing to the casino licensee.

(3) The period for investigation cannot be extended unless the Commission considers that the special circumstances of the case make the extension necessary or desirable and that the extension is in the public interest.

(4) The period for investigation can be extended more than once but cannot in any case be extended to more than 6 months after the contract notice is given to the Commission.

(5) A casino gaming licence is subject to the condition that the casino licensee complies with this section, but a failure to comply with this section does not affect the validity of any contract or variation of contract.

(6) In subsection (3) —

**“special circumstances”** includes the complex nature of the inquiries that need to be made and the need to consult with other agencies.

**Notice to show cause why controlled contract should not be terminated**

**29C.** (1) The Commission may serve on each party to a controlled contract a notice in writing giving the party an

opportunity to show cause in writing within a period of 14 days after the date of that service why the contract should not be terminated on the ground that it is not in the public interest for the contract to remain in force.

(2) The notice shall specify the reasons why the Commission considers that it is not in the public interest for the contract to remain in force.

(3) A person served with a notice under subsection (1) may, within the period referred to in that subsection, serve on the Commission submissions in writing showing cause why the contract should not be terminated.

(4) After receiving and considering any submissions served under subsection (3) within the period referred to in subsection (1) or, if no submission is so served, within a period of 21 days after having served the later or last of the relevant notices, as the case requires, under subsection (1), the Commission may serve notice in writing on each party to the contract requiring the contract to be terminated within a period specified in the notice.

(5) If the contract is not terminated within the period specified in the notice, it is terminated at the expiry of that period by force of this subsection.

**Effect of termination**

**29D.** If a contract is terminated under section 29C —

- (a) the termination does not affect a right acquired or a liability incurred before that termination by a person who was a party to the contract, as a result of the performance before that termination of any obligation imposed by the contract;
- (b) no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that termination; and

- (c) neither the Crown nor the Commission incurs any liability by reason of that termination.

**Parties not to give further effect to terminated contract**

**29E.** A person who was a party to a contract terminated under section 29C shall not give any further effect to any part of the contract.

Penalty: \$10 000.

**PART VB — INFRINGEMENT NOTICES**

**Interpretation**

**29F.** In this Part —

“**authorized person**” means a person appointed under section 29G to be an authorized person for the purposes of the section in which the term is used.

**Authorized persons**

**29G.** (1) The Commission may, in writing, appoint persons or classes of persons to be authorized persons for the purposes of this Part.

(2) Subject to subsection (4), the Commission shall issue to each person who is authorized to serve infringement notices under section 29H a certificate stating that the person is so authorized, and the authorized person shall produce the certificate whenever required to do so by a person to whom he or she has given, or is about to give, an infringement notice.

(3) A person who is authorized to serve infringement notices under section 29H is not eligible to be an authorized person for the purposes of any other section in this Part.

(4) Subsection (2) does not apply to a member of the Police Force who is authorized to serve infringement notices under section 29H.

### **Serving of infringement notices**

**29H.** (1) An authorized person who has reason to believe that a person has committed a prescribed offence against this Act may, within 21 days after the alleged offence is believed to have been committed, serve an infringement notice on the alleged offender.

(2) An infringement notice may be served personally or by registered post.

### **Form of notice**

**29I.** (1) An infringement notice shall be in the prescribed form and shall —

- (a) contain a description of the alleged offence;
- (b) advise that, if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorized person within a period of 28 days after the date of service of the notice; and
- (c) advise the alleged offender as to who are authorized persons for the purposes of paragraph (b).

(2) The amount specified in an infringement notice as the modified penalty for the offence referred to in the notice shall be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.

#### **Extension of time**

**29J.** An authorized person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid, and the extension may be allowed whether or not the period of 28 days has elapsed.

#### **Withdrawal of notice**

**29K.** (1) An authorized person may, whether or not the modified penalty has been paid, withdraw an infringement notice by serving on the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.

(2) If an infringement notice is withdrawn after the modified penalty has been paid, the amount of the penalty shall be refunded.

(3) A notice under this section may be served personally or by registered post.

#### **Benefit of payment of modified penalty**

**29L.** (1) If the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for, the alleged offence.

(2) Payment of a modified penalty shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

**Application of penalties collected**

**29M.** Subject to section 29K (2), an amount paid as a modified penalty shall be paid to the Commission and dealt with as moneys received by the Commission under section 9 (2) of the *Gaming Commission Act 1987*.

”.

**Section 32 amended**

**28.** Section 32 (1) of the principal Act is amended —

(a) by deleting “section 30 or 31,” and substituting the following —

“  
 a provision of this Act mentioned in the Table to this subsection,

”;

and

(b) by inserting at the end of the subsection the following Table —

“

Table	
section 22 (7)	section 27 (3a)
section 23 (2) (ii)	section 27A (4)
section 26 (1d)	section 30 (3)
section 26 (6)	section 31
section 27 (3)	

”.

**Section 33 amended**

**29.** Section 33 of the principal Act is amended in the penalty provision at the foot of the section —

(a) by deleting “\$1 000;” and substituting the following —

“ \$2 000; ”; and

(b) by deleting “\$2 000.” and substituting the following —

“ \$5 000. ”.

**Section 36 amended**

**30.** (1) Section 36 (1) of the principal Act is amended by inserting after “instituted by” the following —

“ a member of the Police Force, ”.

(2) After section 36 (1) of the principal Act the following subsection is inserted —

“

(1a) If proceedings for an offence under this Act 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;

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

(c) the result of the proceedings.

”.

(3) Section 36 (4) of the principal Act is amended —

- (a) by deleting “and” after paragraph (e);
- (b) by deleting the full stop at the end of paragraph (f) and substituting the following —

“ ; and ”; and

- (c) by inserting at the end of the subsection the following paragraph —

“

- (g) the averment that at a specified time, or during a specified period, specified premises were operated as a licensed casino shall be sufficient evidence of the fact until the contrary is proved.

”.

### **Schedule 2 amended**

**31.** Schedule 2 to the principal Act is amended —

- (a) in item 1, by deleting “casino” and substituting the following —

“ government ”;

- (b) by inserting after item 2 the following item —

“

2a. The disciplinary actions that the Commission may take in relation to a person licensed as a casino employee or a casino key employee, which may include —

- (a) the service of a letter of censure on the employee;

- (b) the imposition of a fine not exceeding \$1 000;  
or
- (c) the cancellation or suspension of the licence held by the employee,

or any combination of those actions.

”;

and

- (c) in item 3, by deleting “Committee” and substituting the following —

“ Commission ”.

**PART 3 — GAMING COMMISSION ACT 1987**

**Principal Act**

**32.** In this Part the *Gaming Commission Act 1987*\* is referred to as the principal Act.

[\* Reprinted as at 5 May 1997.]

**Section 3 amended**

**33.** (1) Section 3 (1) of the principal Act is amended by deleting the definition of “authorized officer” and substituting the following definition —

“

**“authorized officer”** means —

- (a) a member of the Commission;
- (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*;
- (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;

”.

**s. 33**

(2) Section 3 (1) of the principal Act is further amended by inserting before the definition of “unlawful game” the following definition —

“

“**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;

”.

(3) After section 3 (2) of the principal Act the following subsection is inserted —

“

(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 fulfilment of that purpose would result in benefit to any person as an individual;  
and
- (b) any club, society, institution, organization or association of persons, by whatever name called, and any separate branch or section of such a club, society, institution, organization or association, shall be taken to constitute a separate body of persons.

”.

**Section 9 amended, and transitional**

**34.** (1) Section 9 (2) of the principal Act is repealed and the following subsection is substituted —

“ (2) The moneys received by the Commission shall be —

- (a) credited to an account at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*; or
- (b) paid into and placed to the credit of an account at a bank approved by the Treasurer,

and the account shall be called the Gaming Commission Account.

”.

(2) Section 9 (4) of the principal Act is amended by inserting after “time to time” the following —

“ credited to or ”.

(3) As soon as practicable after the day on which this Act comes into operation (“**the commencement day**”) —

- (a) any moneys standing to the credit of the Casino Control Account referred to in section 9 (2) (a) of the principal Act, as in force immediately before the commencement day, are —
  - (i) to be credited to the account referred to in section 9 (2) (a) of the principal Act; or
  - (ii) to be paid into and placed to the credit of the account referred to in section 9 (2) (b) of the principal Act,

as amended by subsection (1); and

- (b) the Casino Control Account is to be closed.

**Section 12 amended**

**35.** (1) Section 12 (1) of the principal Act is amended —

(a) by deleting paragraph (a) and substituting the following paragraph —

“  
(a) the person holding or acting in the office of Executive Director of the Office of Racing, Gaming and Liquor, who shall be *ex officio* Chairman of the Commission;  
”;

and

(b) in paragraph (b), by deleting “2 members,” and substituting the following —

“ 4 members, ”.

(2) Section 12 (2) of the principal Act is repealed.

(3) Section 12 (4) of the principal Act is amended —

(a) in paragraph (a), by deleting “Racing and Gaming” and substituting the following —

“ Racing, Gaming and Liquor ”;

(b) by inserting “or” after paragraph (a); and

(c) by deleting paragraph (b) and “or” after that paragraph.

(4) Section 12 (6) of the principal Act is amended by deleting “an *ex officio*” and substituting the following —

“ the *ex officio* ”.

(5) Section 12 (10) of the principal Act is amended by deleting “an office referred” and substituting the following —

“ the office referred ”.

(6) Section 12 (11) (b) of the principal Act is amended by deleting “*Companies (Western Australia) Code*,” and substituting the following —

“ Corporations Law; ”.

### **Section 13 amended**

**36.** (1) Section 13 (1) of the principal Act is amended by deleting “Public Service Board,” and substituting the following —

“ Minister for Public Sector Management, ”.

(2) Section 13 (4) of the principal Act is amended by deleting “*Public Service Act 1978*,” and substituting the following —

“ *Public Sector Management Act 1994*, ”.

### **Section 16 amended**

**37.** (1) Section 16 (1) (b) of the principal Act is amended by deleting “casino inspector;” and substituting the following —

“ government inspector; ”.

(2) After section 16 (3) of the principal Act the following subsection is inserted —

“ (4) In this section —

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

”.

**s. 38**

**Section 18 amended**

- 38.** (1) Section 18 (1) of the principal Act is amended —
- (a) by deleting “Permanent Head” and substituting the following —  
“ chief executive officer ”; and
  - (b) by deleting “Racing and Gaming” and substituting the following —  
“ Racing, Gaming and Liquor ”.
- (2) Section 18 (2) of the principal Act is amended by deleting “Racing and Gaming)” and substituting the following —  
“ Racing, Gaming and Liquor) ”.

**Section 22 amended**

- 39.** Section 22 (2) of the principal Act is amended by inserting after “section 21 (1),” the following —
- “  
or, if the authorized officer is not appointed under that provision, any other evidence of office that is reasonable in the circumstances,  
”.

**Section 26 amended**

- 40.** After section 26 (1) of the principal Act the following subsection is inserted —
- “  
(1a) Where the Commission, an authorized 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, authorized 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.

”.

**Section 27 amended**

**41.** Section 27 (2) (a) of the principal Act is amended by deleting “*Companies (Western Australia) Code*,” and substituting the following —

“ Corporations Law, ”.

**Section 32 amended**

**42.** Section 32 (2) of the principal Act is amended by deleting “may order” and substituting the following —

“ shall order ”.

**Section 33 amended**

**43.** (1) Section 33 (1) of the principal Act is amended by deleting “by the Commission”.

(2) Section 33 (3) of the principal Act is repealed and the following subsections are substituted —

“

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

**s. 44**

(4) If proceedings for an offence under this Act 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;
- (b) the offence or offences alleged in the proceedings; and
- (c) the result of the proceedings.

”.

**Section 37 amended**

**44.** Section 37 (1) of the principal Act is amended by deleting “*Companies (Western Australia) Code*” and substituting the following —

“ Corporations Law ”.

**Section 38 amended**

**45.** Section 38 of the principal Act is amended —

(a) in paragraph (a) —

- (i) by deleting “*Companies (Western Australia) Code*,” and substituting the following —

“ Corporations Law, ”; and

- (ii) by deleting “that Code” and substituting the following —

“ the Corporations Law ”;

and

- (b) in paragraph (b), by deleting “*Associations Incorporation Act 1895*,” and substituting the following —

“ *Associations Incorporation Act 1987*, ”.

**Section 39 amended**

- 46.** (1) Section 39 (1) (d) of the principal Act is amended —

- (a) by inserting after paragraph (iii) the following paragraph —

“  
(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;  
”;

and

- (b) in paragraph (v), by deleting “that”.

- (2) Section 39 (2) (d) of the principal Act is amended —

- (a) by inserting “or” after subparagraph (ii);
- (b) by deleting “; or” at the end of subparagraph (iii) and substituting a comma; and
- (c) by deleting subparagraph (iv).

- (3) Section 39 (2) (e) of the principal Act is amended by inserting after “used for gaming if” the following —

“ it is used in premises of a prescribed kind or class and if ”.

**Section 41 amended**

**47.** Section 41 (5) of the principal Act is amended by deleting “may order” and substituting the following —

“ shall order ”.

**Section 44 amended**

**48.** Section 44 (1) of the principal Act is amended —

(a) in paragraph (a), by inserting after “obtains” the following —

“ or attempts to obtain ”;

(b) in paragraph (b), by inserting after “gains” the following —

“ or attempts to gain ”;

(c) in paragraph (c), by inserting after “causes” the following —

“ or attempts to cause ”; and

(d) in paragraph (d), by inserting after “induces” the following —

“ or attempts to induce ”.

**Section 45 amended**

**49.** (1) Section 45 (1) of the principal Act is amended by inserting after “relating to” the following —

“ a permitted lottery or ”.

(2) Section 45 (2) of the principal Act is amended by deleting “any permitted bingo, permitted two-up, permitted lottery or permitted amusement with prizes” and substituting the following —

“ a permitted lottery or permitted gaming ”.

(3) Section 45 (3) of the principal Act is amended by inserting after “raised by” the following —

“ a lottery or ”.

(4) Section 45 (4) of the principal Act is amended —

(a) by inserting after “who conducts” the following —

“ a lottery, ”; and

(b) in paragraph (a), by inserting after “authorizes the” the following —

“ lottery, ”.

#### **Section 46 amended**

**50.** Section 46 (2) (a) of the principal Act is deleted and the following paragraph is substituted —

“

(a) which is declared to be an authorized 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);

”.

**Section 51 amended**

**51.** Section 51 (2) (b) (ii) of the principal Act is amended by inserting after “private gain” the following —

“ or any commercial undertaking ”.

**Section 60 amended**

**52.** (1) Section 60 (1) of the principal Act is amended —

(a) by deleting “section 61 and”;

(b) in paragraph (d), by inserting after “permit” the following —

“ or a certificate ”; and

(c) in paragraph (e), by inserting after “or permit” the following —

“ or certificate ”.

(2) Section 60 (2) of the principal Act is amended —

(a) by inserting after “or a permit” the following —

“ or a certificate ”; and

(b) in paragraph (a), by inserting after “or permit” the following —

“ or certificate ”.

(3) Section 60 (3) of the principal Act is amended by inserting after “or a permit” the following —

“ or a certificate ”.

(4) Section 60 (4) of the principal Act is amended —

- (a) by inserting after “or a permit” the following —  
“ or a certificate ”; and
- (b) by inserting after “or permit” the following —  
“ or certificate ”.

(5) Section 60 (5) of the principal Act is amended by inserting after “or a permit” the following —

“ or a certificate ”.

(6) Section 60 (6) of the principal Act is amended —

- (a) by inserting after “or a permit” the following —  
“ or a certificate ”; and
- (b) by inserting after “or permit”, in the 2 places where it occurs, the following —  
“ or certificate ”.

(7) After section 60 (6) of the principal Act the following subsection is inserted —

“ (7) The application of this section to the revocation of a certificate is subject to sections 88 and 92. ”.

**Section 64 amended**

**53.** Section 64 (5) of the principal Act is repealed and the following subsection is substituted —

“ (5) For the purposes of this section, a payment which constitutes payment of, or of a periodic instalment of, an

**s. 54**

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 gaming or betting occurring at premises conducted by that body so long as the gaming or betting is not conducted by or on behalf of that body.

”.

**Section 80 amended**

**54.** (1) Section 80 (1) (a) (ii) of the principal Act is amended by inserting after “of the day” the following —

“ and, if subsection (1a) applies, the day after the day ”.

(2) Section 80 (1) (b) of the principal Act is amended —

(a) by deleting “and” after subparagraph (iii); and

(b) by inserting after that subparagraph the following —

“

(iiia) not for the purposes of private gain or any commercial undertaking; and

”.

(3) After section 80 (1) of the principal Act the following subsections are inserted —

“

(1a) Subject to subsection (1b), a permit issued under section 51 that authorizes playing or betting 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 authorize playing or betting at that game to continue, for the period specified in the permit, into the day after race day.

(1b) A permit that authorizes playing or betting at the game known as “two-up” to continue into the day after race day ceases to have effect if playing or betting at that game does not begin during race day.

”.

**Section 81 amended**

55. Section 81 (1) (b) of the principal Act is amended —

- (a) by deleting “and” after subparagraph (i); and
- (b) by inserting after that subparagraph the following —

“

- (ia) not for the purposes of private gain or any commercial undertaking; and

”.

**Section 82 amended**

56. Section 82 of the principal Act is amended —

- (a) by inserting after paragraph (a) the following —  
“ and ”;
- (b) by deleting the semicolon at the end of paragraph (b) and “and” after that paragraph and substituting a comma; and
- (c) by deleting paragraph (c).

**Section 84 amended**

57. Section 84 (1) of the principal Act is amended in paragraph (b) of the definition of “prescribed gaming equipment” by inserting after “other machine” the following —

“ or other thing ”.

**Section 85 amended**

58. (1) Section 85 (1) (a) of the principal Act is deleted and the following paragraph is substituted —

“

- (a) any gaming machine (not being a video machine authorized 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 used, at any public place to which the public have or are permitted to have access, for the playing of a game 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 authorized game under section 22 of the *Casino Control Act 1984* to be played in a licensed casino;
  - (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);

”.

(2) Section 85 (4) of the principal Act is amended by deleting “A person” and substituting the following —

“ Subject to subsection (5), a person ”.

(3) After section 85 (4) of the principal Act the following subsections are inserted —

“

(5) Subsection (4) does not apply to an authorized 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.

(6) In subsection (5) —

“**authorized person**” means the Commission or a person authorized in writing by the Commission.

”.

### **Section 95 amended**

**59.** Section 95 (1) of the principal Act is amended by deleting “A” and substituting the following —

“

Where the Commission is satisfied that it is not to be conducted for the purposes of private gain or any commercial undertaking, a

”.

**s. 60**

**Section 100 amended**

**60.** Section 100 of the principal Act is amended by inserting after paragraph (n) the following paragraph —

- “
- (na) the persons —
    - (i) who may be given cards without payment; or
    - (ii) who shall not be given cards without payment;
- ”.

**Section 102 amended, and transitional**

**61.** (1) Section 102 of the principal Act is amended by deleting the passage from “is — ” to the end of paragraph (b) and substituting the following —

“

is a lottery, game of lotto or soccer football pool conducted under the *Lotteries Commission Act 1990*, an authorized 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,

”.

(2) If the conduct of a trade promotion lottery has begun but has not been completed before this section comes into operation, the conduct of the trade promotion lottery may continue as if this section had not been enacted.

**Section 104 amended**

**62.** (1) Section 104 (1) of the principal Act is repealed and the following subsections are substituted —

“

(1) A permit authorizing 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.

(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 108 of the *Stamp Act 1921*.

(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.

”.

(2) After section 104 (3) (e) of the principal Act the following paragraphs are inserted —

“

(ea) the permit holder shall ensure that every ticket or chance sold or subscription received is included in the drawing of a standard lottery;

(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;

”.

**s. 63**

(3) Section 104 (3) (k) of the principal Act is amended by deleting “in any circumstance be returned.” and substituting the following —

“  
be returned unless the Commission has given the permit holder notice in writing authorizing the return of the money.  
”.

(4) After section 104 (3) of the principal Act the following subsections are inserted —

“  
(4) A permit holder who fails to comply with subsection (3) (ea) or (eb) commits an offence.

Penalty: \$1 000.

(5) A person who returns any money contrary to subsection (3) (k) commits an offence.

Penalty: \$1 000.  
”.

**Section 104A inserted**

**63.** After section 104 of the principal Act the following section is inserted —

“  
**Commission not liable to give compensation for unpaid prizes**

**104A.** 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 105 amended**

**64.** Section 105 (2) of the principal Act is repealed and the following subsection is substituted —

“

(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 106 amended**

**65.** (1) Section 106 (1) (a) of the principal Act is amended by deleting “with intent to defraud, takes or” and substituting the following —

“ fraudulently takes or fraudulently ”.

(2) After section 106 (1) of the principal Act the following subsection is inserted —

“

(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.

”.

**s. 66**

**Section 108 amended**

**66.** Section 108 (1) of the principal Act is amended by inserting after “charitable purposes” the following —

“  
 , and not for the purposes of private gain or any commercial undertaking,  
”.

**Section 109 amended**

**67.** Section 109 (g) of the principal Act is amended by inserting after “notification” the following —

“ and delivery ”.

**Part V, Division 8, inserted, and consequential amendment**

**68.** (1) After section 109 of the principal Act the following Division is inserted in Part V —

“  
***Division 8 — Unclaimed winnings***

**Interpretation**

**109A.** In this Division —

“**the Trust**” means the Gaming Community Trust established under section 109D;

“**the Trust Fund**” means the Gaming Community Trust Fund referred to in section 109C;

**“unclaimed winnings”** includes any stake hazarded or bet placed that is repayable with the unclaimed winnings.

### **Unclaimed winnings**

**109B.** (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 or betting authorized 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 or betting authorized by the permit or the game (**“the responsible person”**), shall notify the Commission in writing of —

- (c) details of the unclaimed winnings;
- (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 or betting authorized by the permit, complies with any direction given to the permit holder or person under this section.

### **Gaming Community Trust Fund**

- 109C.** (1) 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,

shall be paid to the Commission to be credited to a trust account at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, to be called the Gaming Community Trust Fund.

(2) The Trust Fund 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 Fund shall be regarded as —

- (a) a service under the control of the Commission for the purposes of section 54 of the *Financial Administration and Audit Act 1985*; and
- (b) part of the operations of the Commission for the purposes of Division 14 of Part II of that Act.

### **Gaming Community Trust**

**109D.** (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 Fund for the benefit of the community.

(3) The Trust shall consist of 5 members as follows —

- (a) the person holding or acting in the office of Chairman of the Commission, who shall be *ex officio* chairman of the Trust;

- (b) one person appointed by the Minister on the nomination of Burswood Nominees Pty Ltd; 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) The chairman shall preside at the meetings of the Trust.
- (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 Minister for Public Sector Management.
- (9) In this section —
- “appointed member”** means a member appointed by the Minister under subsection (3) (b) or (c).

”.

(2) Section 9 (1) (k) of the *Unclaimed Money Act 1990*\* is deleted.

[\* *Act No. 31 of 1990.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 240.]*

**Section 110 amended**

**69.** Section 110 of the principal Act is amended by deleting “*Liquor Act 1970*” in the 2 places where it occurs and substituting in each place the following —

“ *Liquor Licensing Act 1988* ”.

**Section 112 amended**

**70.** Section 112 (3), (4) and (5) of the principal Act are repealed.

**Section 114 repealed**

**71.** Section 114 of the principal Act is repealed.