

TASMANIA

GAMING CONTROL AMENDMENT (MISCELLANEOUS AMENDMENTS) BILL 2005

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 5A amended (Gaming and related activities prohibited in certain circumstances)
6. Section 5B inserted
 - 5B. Proceeds of illegal game, &c., to be forfeited
7. Section 11 amended (Authority conferred by casino licence)
8. Section 12 amended (Authority conferred by gaming operator's licence)
9. Section 36 amended (Application for licensed premises gaming licence)
10. Section 43B amended (Renewal of licensed premises gaming licence)
11. Section 51 amended (Application for special employee's licence)
12. Part 4, Division 5: Heading amended
13. Section 70 amended (Roll of Recognized Manufacturers, Suppliers and Testers of Gaming Equipment)
14. Section 71 amended (Application to be listed on Roll)

15. Section 76 amended (Payments, &c., to venue operator unlawful)
16. Section 76ZZI amended (Approval of control system)
17. Section 78 substituted
 78. Rectification order as precursor to disciplinary action
18. Section 112F amended (Appeal to Commission)
19. Section 112G amended (Commissioner of Police may order person to be excluded)
20. Sections 112GA and 112GB inserted
 - 112GA. Information not to be disclosed
 - 112GB. Application for review by Magistrates Court
21. Section 112S amended (Grounds for disciplinary action)
22. Section 112T amended (Disciplinary action)
23. Section 133 amended (Powers of inspectors)
24. Section 135 amended (Offences relating to inspectors)
25. Section 142 amended (Audit)
26. Section 150A amended (Taxation in respect of Tasmanian gaming licence)
27. Section 153A amended (Gaming and wagering guarantee)
28. Section 155 amended (Possession of gaming equipment)
29. Section 156 amended (Seizure and forfeiture of equipment)
30. Section 159 amended (Conflict of interest and duty)
31. Section 161 amended (Change in situation of licensee or person listed on the Roll)
32. Section 162 amended (Destruction of finger prints, &c.)
33. Section 172 amended (Information gathering for law enforcement purposes)
34. Section 174 amended (Regulations)

**GAMING CONTROL AMENDMENT
(MISCELLANEOUS AMENDMENTS) BILL 2005**

*(Brought in by the Minister for Finance, the Honourable
James Glennister Cox)*

A BILL FOR

An Act to amend the *Gaming Control Act 1993*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Gaming Control Amendment (Miscellaneous Amendments) Act 2005*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Gaming Control Act 1993** is referred to as the Principal Act.

*No. 94 of 1993

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “accredited representative”:

“accredited testing facility” means a facility –

- (a) for the testing of gaming equipment, games and gaming machines; and
- (b) the name of which appears on the Roll;
- (b) by omitting “, other than in conjunction with the provision of meals” from paragraph (a) of the definition of “licensed premises”;
- (c) by omitting “Manufacturers and Suppliers” from the definition of “Roll” and substituting “Manufacturers, Suppliers and Testers”.

5. Section 5A amended (Gaming and related activities prohibited in certain circumstances)

Section 5A(1) of the Principal Act is amended by omitting the penalty and substituting the following penalty:

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 600 penalty units; and
- (b) a second or subsequent offence, a fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 2 years, or both.

6. Section 5B inserted

After section 5A of the Principal Act, the following section is inserted in Part 1A:

5B. Proceeds of illegal game, &c., to be forfeited

The proceeds from any gaming, game or gaming activity that is not authorised by or under this Act must be forfeited to, or may be seized by, the Crown.

7. Section 11 amended (Authority conferred by casino licence)

Section 11(1)(a) of the Principal Act is amended as follows:

- (a) by omitting “manufacturers and suppliers” and substituting “manufacturers, suppliers and testers”;
- (b) by inserting “and testing services” after “equipment”.

8. Section 12 amended (Authority conferred by gaming operator's licence)

Section 12(a) of the Principal Act is amended as follows:

- (a) by omitting “manufacturers and suppliers” and substituting “manufacturers, suppliers and testers”;
- (b) by inserting “and testing services” after “equipment”.

9. Section 36 amended (Application for licensed premises gaming licence)

Section 36 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) A person may apply to the Commission to be granted a licensed premises gaming licence for licensed premises other than premises that are –
 - (a) contained within a restaurant; or
 - (b) otherwise part of a restaurant; or
 - (c) prescribed premises.

10. Section 43B amended (Renewal of licensed premises gaming licence)

Section 43B of the Principal Act is amended by inserting after subsection (4) the following subsection:

- (5) The Commission may refuse to renew a licensed premises gaming licence if the holder of the licence does not –
- (a) comply with a requirement imposed under section 40 within 60 days of the requirement being made; or
 - (b) if the Commission requires the provision of further information under that section, provide such information within 60 days of the further requirement being made.

11. Section 51 amended (Application for special employee’s licence)

Section 51(1)(c) of the Principal Act is amended by inserting “, or an educational or training institution approved by the Commission for the purpose,” after “employ the applicant”.

12. Part 4, Division 5: Heading amended

Division 5 of Part 4 of the Principal Act is amended by omitting “*Manufacturers and suppliers of gaming equipment*” from the heading to that Division and substituting “*Manufacturers, suppliers and testers of gaming equipment*”.

13. Section 70 amended (Roll of Recognized Manufacturers, Suppliers and Testers of Gaming Equipment)

Section 70 of the Principal Act is amended by omitting “Manufacturers and Suppliers” and substituting “Manufacturers, Suppliers and Testers”.

14. Section 71 amended (Application to be listed on Roll)

Section 71 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

(1) A person is to apply to the Commission to be listed on the Roll if the person –

(a) manufactures or supplies, or intends to manufacture or supply, gaming equipment for or to a holder of a Tasmanian gaming licence, a gaming operator, casino operator or minor gaming operator; or

(b) supplies or intends to supply testing services to a holder of a Tasmanian gaming licence, a gaming operator, casino operator or minor gaming operator.

(1A) If, immediately before the day on which the *Gaming Control Amendment (Miscellaneous Amendments) Act 2005* commences, a person was supplying testing services to a holder of a

Tasmanian gaming licence, a gaming operator, casino operator or minor gaming operator, the Commission must on that day list that person on the Roll.

- (1B) A listing on the Roll made under subsection (1A) expires 12 months after it is made unless the person so listed applies for, and is granted, within that period a listing on the Roll under this Division.
- (1C) If a listing on the Roll expires because of the operation of subsection (1B), the Commission must remove that listing from the Roll.

15. Section 76 amended (Payments, &c., to venue operator unlawful)

Section 76 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “manufacturer or supplier” twice occurring and substituting “manufacturer, supplier or tester”;
- (b) by omitting from subsection (2) “manufacturer or supplier” twice occurring and substituting “manufacturer, supplier or tester”.

16. Section 76ZZI amended (Approval of control system)

Section 76ZZI(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “provider.” and substituting “provider; and”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) approve an amendment to an existing control system of a licensed provider.

17. Section 78 substituted

Section 78 of the Principal Act is repealed and the following section is substituted:

78. Rectification order as precursor to disciplinary action

- (1) Before taking disciplinary action against a prescribed licence holder under section 112T, the Commission may direct the prescribed licence holder in writing to take specified action within a specified time to rectify the matter which constitutes the grounds for the disciplinary action concerned.
- (2) If a prescribed licence holder referred to in subsection (1) fails to take the specified action within the specified time, the Commission may take

disciplinary action in accordance with section 112T.

18. Section 112F amended (Appeal to Commission)

Section 112F(1) of the Principal Act is amended by inserting “, other than an order given on the direction of the Commissioner of Police under section 112G,” after “exclusion order”.

19. Section 112G amended (Commissioner of Police may order person to be excluded)

Section 112G of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) Where the Commissioner of Police is of the opinion that, in order to suppress crime or disorderly conduct, it is necessary or desirable to exclude a person from premises on which wagering with, or other participation in a game conducted by, a specified licence holder occurs, the Commissioner may direct the licence holder to exclude the person from those premises by giving the person or causing the person to be given an exclusion order under section 112E.

20. Sections 112GA and 112GB inserted

After section 112G of the Principal Act, the following sections are inserted in Division 3:

112GA. Information not to be disclosed

A person must not disclose to any person who is not a member of the Police Service any information on which the opinion of the Commissioner of Police under section 112G(1) is based.

Penalty: Fine not exceeding 5 000 penalty units or imprisonment for a term not exceeding 2 years, or both.

112GB. Application for review by Magistrates Court

- (1) Within 28 days after receiving a written exclusion order under section 112E, given on the direction of the Commissioner of Police under section 112G, a person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the order.
- (2) In determining an application for a review of an exclusion order under subsection (1), the Magistrates Court (Administrative Appeals Division) may –
 - (a) uphold the order; or
 - (b) revoke the order.
- (3) In determining an application for a review under subsection (1), the Magistrates Court (Administrative Appeals Division) –
 - (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose any

information on which the opinion of the Commissioner of Police under section 112G(1) is based; and

- (b) in order to prevent the disclosure of any such information, is to receive evidence and hear argument in the absence of the public, the applicant for the review and the applicant's representative.

21. Section 112S amended (Grounds for disciplinary action)

Section 112S of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (d) in subsection (1):
 - (da) the prescribed licence holder has failed to take action as directed, or within the time specified, by the Commission under section 78;
- (b) by inserting the following subsection after subsection (1):
 - (1A) Each of the following is a ground for disciplinary action against an accredited testing facility, manufacturer or supplier:
 - (a) any gaming machine, game or gaming equipment manufactured

or supplied is, in the opinion of the Commission, unreliable or otherwise unsatisfactory;

- (b) any testing of gaming machines, games or gaming equipment is, in the opinion of the Commission, unsatisfactory.

22. Section 112T amended (Disciplinary action)

Section 112T(1) of the Principal Act is amended by omitting “500” from paragraph (f)(ii) of the definition of “disciplinary action” and substituting “10 000”.

23. Section 133 amended (Powers of inspectors)

Section 133(1)(d)(ii) of the Principal Act is amended by omitting “manufacturer or supplier” and substituting “manufacturer, supplier or tester”.

24. Section 135 amended (Offences relating to inspectors)

Section 135(4) of the Principal Act is amended by omitting “manufacturer or supplier” from paragraph (b) of the definition of “prescribed premises” and substituting “manufacturer, supplier or tester”.

25. Section 142 amended (Audit)

Section 142 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or licensed provider” after “the operator”;
- (b) by inserting in subsection (2) “or licensed provider” after “operator”;
- (c) by inserting in subsection (3) “or licensed provider” after “operator”.

26. Section 150A amended (Taxation in respect of Tasmanian gaming licence)

Section 150A(1) of the Principal Act is amended as follows:

- (a) by omitting “gross profits” second occurring from the definition of “cumulative gross profits” and substituting “gaming revenue”;
- (b) by omitting “gross profits” second occurring from the definition of “monthly gross profits” and substituting “gaming revenue”.

27. Section 153A amended (Gaming and wagering guarantee)

Section 153A of the Principal Act is amended by inserting after subsection (8) the following subsection:

(9) Where a licence holder –

- (a) has gone into receivership; and
- (b) owes money to the Commission or has unpaid winnings to settle –

the Commission may use the gaming and wagering guarantee paid by the licence holder in order to satisfy those debts.

28. Section 155 amended (Possession of gaming equipment)

Section 155 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) A person who is not authorised under this Act must not possess gaming equipment.

Penalty: Fine not exceeding 1 000 penalty units.

29. Section 156 amended (Seizure and forfeiture of equipment)

Section 156 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

- (1) A police officer or an inspector may, without warrant, seize from any person any equipment which the police officer or inspector

reasonably suspects is gaming equipment that the person is not authorised under this Act to possess.

- (b) by omitting from subsection (3) “is not authorized under this Act to be in the approved venue” and substituting “the person is not authorised under this Act to possess”;
- (c) by omitting from subsection (5) “authorized under this Act to be in the approved venue” and substituting “that the owner is authorised under this Act to possess”.

30. Section 159 amended (Conflict of interest and duty)

Section 159 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “manufacturer or supplier” twice occurring and substituting “manufacturer, supplier or tester”;
- (b) by omitting from subsection (2) “manufacturer or supplier” and substituting “manufacturer, supplier or tester”;
- (c) by omitting from subsection (3) “manufacturer or supplier” and substituting “manufacturer, supplier or tester”;

- (d) by omitting from subsection (4) “manufacturer or supplier” and substituting “manufacturer, supplier or tester”;
- (e) by omitting from subsection (6) “manufacturer or supplier” and substituting “manufacturer, supplier or tester”.

31. Section 161 amended (Change in situation of licensee or person listed on the Roll)

Section 161(1) of the Principal Act is amended by omitting “manufacturer or supplier” and substituting “manufacturer, supplier or tester”.

32. Section 162 amended (Destruction of finger prints, &c.)

Section 162(2)(c) of the Principal Act is amended by omitting “manufacturer or supplier” and substituting “manufacturer, supplier or tester”.

33. Section 172 amended (Information gathering for law enforcement purposes)

Section 172 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “manufacturer or supplier” twice occurring and substituting “manufacturer, supplier or tester”;

- (b) by omitting from subsection (3)(a) “manufacturer or supplier” and substituting “manufacturer, supplier or tester”;
- (c) by omitting from subsection (4) “manufacturer or supplier” and substituting “manufacturer, supplier or tester”.

34. Section 174 amended (Regulations)

Section 174(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “manufacturers and suppliers” and substituting “manufacturers, suppliers and testers”;
- (b) by omitting from paragraph (f) “manufacturers and suppliers” and substituting “manufacturers, suppliers and testers”.