



New South Wales

Liquor and Gaming Legislation Amendment Act 2018 No 7

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New South Wales

Liquor and Gaming Legislation Amendment Act 2018 No 7

Act No 7, 2018

An Act to make miscellaneous amendments to certain gaming and liquor and other legislation.
[Assented to 21 March 2018]

See also the *Casino Control Amendment Act 2018*, the *Gaming Machines Amendment (Leasing and Assessment) Act 2018* and the *Registered Clubs Amendment (Accountability and Amalgamations) Act 2018*.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor and Gaming Legislation Amendment Act 2018*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Acts and regulations

1.1 Betting and Racing Act 1998 No 114

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

advertisement includes any information or material in the nature of an advertisement.

inspector means a person appointed as an inspector under section 33M and includes, in relation to section 26I, a person authorised by a racing controlling body to exercise the functions of an inspector under that section.

publish means disseminate or provide access to the public or a section of the public by oral, visual, written, electronic or other means (for example, by means of newspaper, radio, television, cinema or through the use of the Internet, subscription TV or other on-line communications system).

[2] Section 11 Provisions relating to inspection of records

Omit “authorised officer” wherever occurring in section 11 (1), (2), (5) and (6).

Insert instead “inspector”.

[3] Section 11 (4) and (7)

Omit the subsections.

[4] Section 14 Punters’ clubs

Omit “50 penalty units” from section 14 (1). Insert instead “20 penalty units”.

[5] Section 18C Certain sports betting services prohibited

Omit the penalty provision from section 18C (1). Insert instead:

Maximum penalty:

- (a) for an individual:
 - (i) 50 penalty units for a first offence, or
 - (ii) 100 penalty units or imprisonment for 6 months (or both) for a second or subsequent offence, or
- (b) for a corporation:
 - (i) 250 penalty units for a first offence, or
 - (ii) 1,000 penalty units for a second or subsequent offence.

[6] Section 19 Declared betting event authority

Omit the penalty provision from section 19 (1). Insert instead:

Maximum penalty:

- (a) for an individual:
 - (i) 50 penalty units for a first offence, or
 - (ii) 100 penalty units or imprisonment for 6 months (or both) for a second or subsequent offence, or
- (b) for a corporation:
 - (i) 250 penalty units for a first offence, or
 - (ii) 1,000 penalty units for a second or subsequent offence.

- [7] **Section 21 Conditions relating to records**
Omit “authorised person” wherever occurring in section 21 (1). Insert instead “inspector”.
- [8] **Section 21 (3)**
Omit the subsection.
- [9] **Section 26I Inspection of records**
Omit “an identification card issued by the Minister” from section 26I (6) (a).
Insert instead “the identification issued to the inspector under section 33M”.
- [10] **Section 26I (7), definition of “inspector”**
Omit paragraph (a) of the definition. Insert instead:
(a) an inspector appointed under section 33M, or
- [11] **Section 27 Definitions**
Omit the definitions of *advertisement* and *publish*.
- [12] **Section 29 Publication of betting information**
Insert “, or cause to be published,” after “publish” in section 29 (1).
- [13] **Section 29 (1)**
Omit the penalty provision. Insert instead:
Maximum penalty:
(a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
(b) for a corporation—250 penalty units.
- [14] **Section 30 Advertising betting information and betting services**
Insert “, or cause to be published,” after “publish” in section 30 (1).
- [15] **Section 30 (1) and (3)**
Omit the penalty provisions wherever occurring. Insert instead:
Maximum penalty:
(a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
(b) for a corporation—250 penalty units.
- [16] **Section 31 Premises used for publishing betting information or betting services**
Omit the penalty provision from section 31 (1). Insert instead:
Maximum penalty:
(a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
(b) for a corporation—250 penalty units.

[17] **Part 4A**

Insert after Part 4:

Part 4A Gambling advertising and inducements

33G Interpretation

- (1) In this Part:
gambling advertisement means an advertisement that gives publicity to, or otherwise promotes or is intended to promote, participation in gambling activities, but does not include a totalizator advertisement within the meaning of section 79 of the *Totalizator Act 1997*.
- (2) The publication of a gambling advertisement to a website that provides the opportunity for, or facilitates or enables, dissemination of information to the public or a section of the public (whether or not the particular publication results in the dissemination of information to the public or a section of the public) constitutes the publication of gambling information for the purposes of this Part.
- (3) This Part does not limit the operation of any regulations relating to responsible practices in the conduct of gambling activities, including regulations restricting or prohibiting the conduct of promotions or other activities (including advertising).

33H Prohibitions on gambling-related advertisements

- (1) A non-proprietary association or licensed betting service provider or any other person must not publish or communicate, or cause to be published or communicated, whether from in or outside New South Wales, any gambling advertisement that may be accessible to a person in New South Wales and that contravenes any requirement of this section.
Maximum penalty:
 - (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (2) A gambling advertisement must not:
 - (a) encourage a breach of the law, or
 - (b) depict children gambling, or
 - (c) be false, misleading or deceptive, or
 - (d) suggest that winning will be a definite outcome of participating in gambling activities, or
 - (e) suggest that participation in gambling activities is likely to improve a person's financial prospects, or
 - (f) promote the consumption of alcohol while engaging in gambling activities, or
 - (g) be published otherwise than in accordance with decency, dignity and good taste and, if the gambling advertisement takes the form of a television advertisement, in accordance with the *Commercial Television Industry Code of Practice* registered by the Australian Communications and Media Authority as in force on the day on which the gambling advertisement is published, or

- (h) include any inducement to participate, or to participate frequently, in any gambling activity (including an inducement to open a betting account).
- (3) A reference to an inducement in subsection (2) (h):
 - (a) includes an inducement that involves an offer that is not available to persons resident in New South Wales, and
 - (b) does not include an inducement published or communicated by a licensed betting service provider to a person who has a betting account with the licensed betting service provider at the time the advertisement is published or communicated to the person.
- (4) A non-proprietary association or licensed betting service provider or any other person must not publish, or cause to be published, any gambling advertisement in writing in a newspaper, magazine, poster or other printed form that does not contain the advisory statement prescribed by the regulations for the purposes of this subsection.

Maximum penalty:

 - (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (5) A non-proprietary association or licensed betting service provider or any other person must not enter into or extend the duration of any contract or arrangement for the publication or communication of any gambling advertisement that does not comply with this section.

Maximum penalty:

 - (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (6) A person (other than a betting service provider) does not commit an offence under this section in respect of the publication or communication of a gambling advertisement if:
 - (a) the gambling advertisement was in the form provided (directly or indirectly) or approved by or on behalf of a betting service provider for the purposes of its publication or communication, and
 - (b) the person has not been notified by or on behalf of the Minister that the publication or communication of the gambling advertisement may contravene this section.

331 Gambling-related advertisements during sporting fixtures

- (1) This section applies to a sporting fixture that is, or is part of, a sporting event for which there is a sports controlling body.
- (2) A person must not publish a gambling advertisement in relation to a sporting fixture during the sporting fixture including during any breaks in the sporting fixture.

Maximum penalty:

 - (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (3) This section does not apply to an extended sporting fixture unless the Minister has published a notice in the Gazette that provides that this section is to apply to that fixture. The Minister may publish a notice if the Minister considers it to be in the public interest.

- (4) This section does not apply to the following advertisements:
- (a) an advertisement to the extent that it is published on the internet,
 - (b) an advertisement to the extent that it is published in gambling premises.
- (5) For the avoidance of doubt, an advertisement that is in place before a sporting fixture commences (such as an advertisement on a billboard) is taken, for the purposes of this section, not to be published during the sporting fixture.
- (6) In this section:
- extended sporting fixture*** means:
- (a) a sporting fixture that is scheduled to take place over a period exceeding 4 hours, or
 - (b) a sporting fixture that takes place on multiple days.
- gambling premises*** means a hotel, racing club or registered club within the meaning of the *Liquor Act 2007* or premises operated by a licensee (or an agent of a licensee) under the *Totalizator Act 1997* for the purposes of the conduct of a totalizator under that Act.
- sporting fixture*** means a single match, game, contest, race (but not a race as defined in section 4) or fight, whether taking place on a single day or multiple days.

33J Gambling inducements

A non-proprietary association or licensed betting service provider or any other person must not offer or supply, or cause to be offered or supplied, any free or discounted liquor as an inducement to participate, or to participate frequently, in any gambling activity conducted at a racecourse.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—500 penalty units.

[18] Part 4B

Insert before Part 5:

Part 4B Investigation and enforcement powers

33K Definitions

In this Part:

GALA Act means the *Gaming and Liquor Administration Act 2007*.

Secretary has the same meaning as in the *Gaming and Liquor Administration Act 2007*.

33L Purposes for which powers under this Part may be exercised

Powers may be exercised under this Part for the following purposes:

- (a) for determining whether there has been compliance with or a contravention of this Act, and the regulations and instruments made under it,
- (b) for obtaining information or records for purposes connected with the administration of this Act and the regulations and instruments made under it,

- (c) in connection with exercising the functions of an inspector under this Act and the regulations and instruments made under it,
- (d) generally for administering this Act, and the regulations and instruments made under it, and promoting its objects.

33M Appointment and identification of inspectors

- (1) The Secretary may appoint a Public Service employee to be an inspector for the purposes of this Act and the regulations and instruments made under it.
- (2) The Secretary is taken to have been appointed as an inspector.
- (3) The Secretary is to cause each inspector to be issued with a means of identification in the form approved by the Secretary.
- (4) In the course of exercising the functions of an inspector under this Act and the regulations and instruments made under it, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection by the person unless to do so would defeat the purpose for which the functions are to be exercised.

33N Powers of inspectors

An inspector has and may exercise the functions of an inspector under Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act (as applied by section 33O) for any of the purposes referred to in section 33L.

33O Application of GALA Act

- (1) Sections 14 and 15 of the GALA Act apply to the appointment of an inspector under section 33M in the same way that they apply to the appointment of an inspector under the GALA Act.
- (2) The provisions of Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act and sections 17 (Secrecy) and 37 (Protection from personal liability) apply to and in respect of this Act and the regulations and instruments made under it as if those provisions were part of this Act, but modified so that:
 - (a) references in those provisions to the gaming and liquor legislation were references to this Act and the regulations and instruments made under it, and
 - (b) references in those provisions to "this Act" and "this Part" were references to this Act and this Part, respectively, and
 - (c) references in those provisions to an inspector were references to inspectors appointed under section 33M, and
 - (d) references in sections 28 (2) and 30 (2) of the GALA Act to "the Authority" were references to the Secretary, and
 - (e) the reference in section 24 (1) of the GALA Act to section 18 were a reference to section 33L, and
 - (f) section 35 (2) of the GALA Act does not apply to the extent that it prevents a person from being excused from answering a question on the ground that the answer may tend to incriminate the person, and
 - (g) section 35 (5) (b) of the GALA Act does not apply to the extent that it makes information obtained as a result of an answer given that might incriminate a person admissible.

- (3) For the avoidance of doubt, a prosecution of a person for an offence against a provision of the GALA Act (as applying under this section) is to be taken as if the offence were an offence under this Act.
- (4) The functions that an inspector has under Part 4 of the GALA Act are, for the purposes of any provision of this Act and the regulations and instruments made under it, taken to be functions under this Act and the regulations and instruments made under it.
- (5) If an inspector has functions in respect of a matter under both the GALA Act (as applying under this section) and under any other provision of this Act or the regulations made under it, the fact that there is a restriction on the exercise of a function under this Act or the regulations does not of itself operate to restrict the exercise by an inspector of any similar or the same function under the GALA Act.

[19] Section 34 Delegation

Omit “and” from the end of section 34 (a) and omit section 34 (b).

[20] Section 35AA

Insert after section 35:

35AA Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (6) In this section, *authorised officer* means a police officer or an inspector.

[21] Section 35A Remedial orders

Insert “, or cause to be published,” after “publish” in section 35A (1) (a).

[22] Section 36AA

Insert after section 36A:

36AA Liability of directors etc for offences by corporation—offences attracting executive liability

- (1) For the purposes of this section, an *executive liability offence* is:
 - (a) an offence against any of the following provisions of this Act that is committed by a corporation:

- (i) section 18C,
- (ii) section 19,
- (iii) section 33H,
- (iv) section 33I,
- (v) section 33J, or
- (b) an offence against the regulations:
 - (i) that is prescribed by the regulations as an offence to which this section applies, and
 - (ii) that is committed by a corporation.
- (2) A person commits an offence against this section if:
 - (a) a corporation commits an executive liability offence, and
 - (b) the person is:
 - (i) a director of the corporation, or
 - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and
 - (c) the person:
 - (i) knows or ought reasonably to know that the executive liability offence (or an offence of the same type) would be or is being committed, and
 - (ii) fails to take all reasonable steps to prevent or stop the commission of that offence.

Maximum penalty: The maximum penalty for the executive liability offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the executive liability offence.
- (5) This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the executive liability offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.
- (7) In this section:
 - director** has the same meaning as in the *Corporations Act 2001* of the Commonwealth.
 - reasonable steps**, in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances:
 - (a) action towards:
 - (i) assessing the corporation's compliance with the provision creating the executive liability offence, and

- (ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision,
- (b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,
- (c) action towards ensuring that:
 - (i) the equipment and other resources, and
 - (ii) the structures, work systems and other processes,relevant to compliance with the provision creating the executive liability offence are appropriate in all the circumstances,
- (d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the executive liability offence.

[23] Section 36C

Omit the section. Insert instead:

36C Giving of notices and other documents

- (1) For the purposes of this Act, a notice or other document may be given to a person (or a notice or other document may be served on a person):
 - (a) in the case of an individual:
 - (i) by delivering it personally to the individual, or
 - (ii) by posting it, addressed to the individual at the individual's residential address, business address or address for service of notices, or
 - (iii) by leaving it with a person apparently aged 16 years or more at the individual's residential address or business address, or
 - (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the individual at the individual's address for service of electronic communications or facsimile transmissions, in accordance with the individual's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions, or
 - (b) in the case of a corporation:
 - (i) by delivering it personally to a person concerned in the corporation's management, or
 - (ii) by posting it, addressed to the corporation at the corporation's business address or address for service of notices, or
 - (iii) by leaving it with a person apparently aged 16 years or more at the corporation's business address, or
 - (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the corporation at the corporation's address for service of electronic communications or facsimile transmissions, in accordance with the corporation's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions.
- (2) A reference in this section to a person's address of any particular kind includes a reference to the address of that kind:

- (a) as last known to the Secretary, or
 - (b) as nominated by the person and provided to the Secretary.
- (3) In this section, *business address* in relation to a person includes the address of any racecourse of which the person is the licensee.

[24] Schedule 1 Savings and transitional provisions

Insert after clause 21:

Part 10 Provisions consequent on enactment of Liquor and Gaming Legislation Amendment Act 2018

22 Definition

In this Part:

amending Act means the *Liquor and Gaming Legislation Amendment Act 2018*.

23 Inspectors

A person who, immediately before the amendment of section 11, 21 or 26I by the amending Act, was an authorised officer or inspector within the meaning of that section is taken, on the commencement of the amendment, to have been appointed as an inspector under section 33M as inserted by the amending Act.

1.2 Betting and Racing Regulation 2012

[1] Clause 10A

Insert after clause 10:

10A Advisory statement

The following advisory statement is prescribed for the purposes of section 33H (4) of the Act:

Think! About your choices

Call Gambling Help

1800 858 858

www.gamblinghelp.nsw.gov.au

[2] Part 2, Division 2 Gambling advertising and inducements

Omit the Division.

[3] Clause 22 Remedial orders

Omit “and 33” from clause 22 (a). Insert instead “, 33, 33H and 33J”.

[4] Clause 22 (b)

Omit “9, 10, 12 and 13”. Insert instead “9 and 10”.

[5] Clause 22A

Insert after clause 22:

22A Penalty notices

For the purposes of section 35AA of the Act, an offence under section 34 (1) or (4) of the GALA Act as applied by section 33O of the Act is prescribed as an offence for which a penalty notice may be issued and the prescribed penalty for any such offence is \$1,100.

1.3 Casino Control Act 1992 No 15

[1] Section 63 Change in state of affairs of licensee

Omit “20 penalty units”. Insert instead “50 penalty units”.

[2] Section 79 Exclusion of persons from casino

Omit section 79 (4).

[3] Section 80 Review of exclusion order

Omit section 80 (1).

[4] Section 80 (1B)

Insert after section 80 (1A):

- (1B) A person who is given an exclusion order by the casino operator on application made by another party who considers the person has a problem from gambling activities may apply to the casino operator for review of the order.

[5] Section 80 (2A) and (2B)

Insert after section 80 (2):

- (2A) The casino operator must review the exclusion order and notify the applicant in writing of its decision within 14 days (or such other period as may be prescribed by the regulations) of receiving the application.
- (2B) An exclusion order that the casino operator allows to stand may be reviewed by the Authority on application made to it by the person to whom the order applies within 14 days after receiving notice of the decision to allow it to stand.

[6] Section 80 (4)–(5A)

Omit the subsections.

[7] Section 80 (7)

Insert “casino operator’s or the” after “pending the”.

1.4 Gambling (Two-up) Act 1998 No 115

[1] Section 17 Appointment of two-up inspectors

Omit “, fingerprints or palm prints” from section 17 (5).

[2] Section 23 Information relating to key employees

Omit “, fingerprints and palm prints” wherever occurring in section 23 (1) (a) and (2).

[3] Section 28 Destruction of fingerprints and palm prints

Insert “(as in force before the amendment of provisions of that Part by the *Liquor and Gaming Legislation Amendment Act 2018*)” after “Part 3” in section 28 (1).

1.5 Gaming and Liquor Administration Act 2007 No 91

[1] Section 3 Definitions

Insert after paragraph (a) of the definition of *key official* in section 3 (1):

(b) the General Counsel of the Authority,

[2] Section 16 Restrictions relating to key officials and former key officials

Insert “without the approval of the appropriate authority carry out any of the following activities” after “must not” wherever occurring in section 16 (1) and (2).

[3] Section 16 (1) (a), (b) and (e) and (2) (a)

Omit “or” wherever lastly occurring.

[4] Section 16 (1) (b) and (e) and (2) (b)

Omit “without the approval of the appropriate authority,” wherever occurring.

[5] Section 16 (1) (c)

Omit the paragraph. Insert instead:

(c) solicit employment, in any capacity, from a gaming or liquor licensee, a person known by the official to be a close associate of such a licensee or from a gaming or liquor industry peak body,

[6] Section 16 (1) (d) (iv)

Insert after section 16 (1) (d) (iii):

(iv) a gaming or liquor industry peak body,

[7] Section 16 (2A)–(2C)

Insert after section 16 (2):

(2A) A key official, former key official, gaming or liquor licensee or close associate may apply in writing to the appropriate authority for an approval under this section.

(2B) The appropriate authority may grant an approval under this section if the appropriate authority is satisfied that the carrying out of the activity does not involve, or is unlikely to involve, any undue risk that is inconsistent with the objects of this Act.

(2C) The regulations may make provision for and with respect to the criteria to be used by the appropriate authority in determining whether to grant an approval under this section.

[8] Section 16 (3A)

Insert after section 16 (3):

(3A) The Minister may, by order in writing published in the Gazette, determine that an association, organisation or other body representing the interests of gaming or liquor licensees is a gaming or liquor industry peak body for the purposes of this section.

[9] Section 16 (4), definition of “former key official”

Omit the definition. Insert instead:

former key official means:

- (a) a person who was a key official (other than a person referred to in paragraph (b) or (c)) at any time during the previous 2 years but who is no longer a key official, or
- (b) a person who was engaged in the administration of the gaming and liquor legislation and was a designated Public Service employee other than a Public Service senior executive at any time during the previous 6 months but who is no longer a key official, or
- (c) a person who was at any time General Counsel of the Authority but who is no longer a key official.

[10] Section 16 (4)

Insert in alphabetical order:

gaming or liquor industry peak body means an association, organisation or other body determined to be a gaming or liquor industry peak body by order under subsection (3A).

1.6 Gaming Machines Act 2001 No 127

[1] Section 45 Regulation of promotional prizes and player reward schemes

Insert “or cause or permit to be offered or presented” after “present” wherever occurring in section 45 (2) (a) and (b).

[2] Section 45 (2) (b1)

Insert after section 45 (2) (b):

- (b1) offer or provide, or cause or permit to be offered or provided, a promotional prize (including a free give away) that is indecent or offensive, or

[3] Sections 45A and 45B

Insert after section 45:

45A Disclosure of information in player activity statements

- (1) This section applies in relation to a player activity statement that relates to the playing of approved gaming machines under a player reward scheme (within the meaning of section 45) conducted regardless of whether the player activity statement is provided under section 45 (4).
- (2) A hotelier or club must not disclose any information contained in a player activity statement to any person unless that person:
 - (a) is the person to whom the information relates, or
 - (b) is lawfully entitled to have access to the information.Maximum penalty: 100 penalty units.

- (3) A person who acquires any information contained in a player activity statement provided by a hotelier or club must not disclose the information to any person unless the person disclosing the information:
- (a) is the person to whom the information relates, or
 - (b) is authorised or required to do so by law.
- Maximum penalty: 100 penalty units.

45B Disclosure of information in relation to players

- (1) In this section:
- account card** means a card:
- (a) issued by a hotelier or club to a person when the person opens up a player account with the hotelier or club, and
 - (b) through which the person can access money held in the player account for the purposes of operating electronic payment gaming machines in the hotel or on the premises of the club.
- electronic payment gaming machine** means an approved gaming machine that can be operated by means of a player card.
- player account** means an account opened by a person with a hotelier or club for the purposes of operating electronic payment gaming machines in the hotel or on the premises of the club.
- player card** means:
- (a) an account card, or
 - (b) a Smartcard.
- Smartcard** means a card:
- (a) issued by a hotelier or club, and
 - (b) on which information and credit in relation to the operation of electronic payment gaming machines can be stored electronically.
- (2) Any information obtained by a hotelier or club in relation to any person to whom the hotelier or club has issued a player card must not be disclosed except:
- (a) with the consent of the person to whom the information relates, or
 - (b) for the purposes of law enforcement, or
 - (c) to any person (including an inspector) who is lawfully entitled to have access to the information.
- (3) Any person who acquires any information contained in a player activity statement must not disclose the information to any person unless the person disclosing the information:
- (a) is the person to whom the information relates, or
 - (b) is authorised or required to do so by law.
- Maximum penalty: 100 penalty units.

[4] Part 4, Division 3A

Insert after section 49:

Division 3A Responsible conduct of gambling (RCG) training

49A Definitions

In this Division:

approved RCG training course means a course of training with respect to the responsible conduct of gambling that is provided:

- (a) by an approved training provider approved by the Secretary in accordance with the regulations in relation to the course, or
- (b) by or on behalf of the Secretary.

approved training provider means a training provider approved by the Secretary in accordance with the regulations to provide training courses with respect to the responsible conduct of gambling.

interim RCG certificate means a certificate (in hard copy or electronic form) granted to a person by the Secretary, or by an approved training provider on behalf of the Secretary, following the person's successful completion of an approved RCG training course, for use by the person in obtaining a recognised competency card.

recognised competency card means a card issued to a person in accordance with the regulations that certifies as to the matters prescribed by the regulations and provides for the expiry of the card in accordance with the regulations.

recognised RCG certification means an interim RCG certificate or recognised competency card.

49B Conditions of approval to conduct RCG training courses

An approved training provider must comply with such conditions as may be imposed by or under the regulations on the provider's approval to conduct training courses with respect to the responsible conduct of gambling.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

49C Prohibition on granting interim RCG certificates to unqualified persons

An approved training provider must not grant an interim RCG certificate on behalf of the Secretary to any person who has not successfully completed an approved RCG training course conducted by the training provider.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

49D Prohibition on providing training courses without approval

A person must not:

- (a) provide or offer to provide any training course that is held out, whether directly or indirectly, to be a course that will satisfy the requirements imposed by or under the Act for issue of recognised RCG certification, or

(b) advertise, state or imply in any way that the person is qualified to provide any such course,

unless the person is the Secretary, a person who provides an approved RCG training course on behalf of the Secretary or an approved training provider.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

[5] Section 50 Minors prohibited from operating gaming machines in hotels or clubs

Omit “10 penalty units” from section 50 (1). Insert instead “20 penalty units”.

[6] Section 52 Minors not permitted in gaming machine areas

Omit “10 penalty units” from section 52 (1). Insert instead “20 penalty units”.

[7] Section 64 Declaration of approved gaming machines

Insert after section 64 (6):

- (6A) A device ceases to be an approved gaming device if the Authority has authorised the destruction of that device or devices of that class or description under section 81A.

[8] Section 68A

Insert after section 68:

68A Location and operation of gaming machines in hotels

- (1) A hotelier must not:
 - (a) keep an approved gaming machine in the hotel unless the gaming machine is located in a bar area (within the meaning of the *Liquor Act 2007*) of the hotel, or
 - (b) permit an approved gaming machine in the hotel to be operated at any time other than a time when liquor may be lawfully sold or supplied under the *Liquor Act 2007* in the bar area in which the gaming machine is kept or when the continued provision of services and facilities such as gambling activities is authorised by or under that Act at such a time.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) (a) does not apply in relation to an approved gaming machine that is stored by the hotelier at such place (whether or not in the hotel) and in such circumstances as may be approved by the Authority or that is kept in accordance with section 68 (b).

[9] Section 75A

Insert after section 75:

75A General requirement to award or pay prizes

- (1) A hotelier or club must award or pay a prize that is won from the playing of an approved gaming machine kept in the hotel or on the premises of the club to a player who is entitled to the prize (the *prizewinner*) on request by the prizewinner and in accordance with subsections (2)–(7).

Maximum penalty: 100 penalty units.

- (2) A prize may be awarded in a non-monetary form or paid as money.

- (3) If a prize is awarded in a non-monetary form, the hotelier or club must give the prizewinner the choice to be paid money instead.
- (4) If a hotelier or club pays a monetary prize to a prizewinner, the hotelier or club must pay an amount equal to (but not exceeding) the value of the credits accumulated by the prizewinner from playing the relevant approved gaming machine.
- (5) A non-monetary prize must not consist of or include:
 - (a) liquor in any form, or
 - (b) tobacco in any form, or
 - (c) knives or knife blades, or
 - (d) firearms or ammunition within the meaning of the *Firearms Act 1996*.
- (6) The hotelier or club, or an employee of the hotelier or club, need not award or pay a prize immediately after a prizewinner requests it, but:
 - (a) in the case of a monetary prize—must pay the prize within 48 hours of the request (except where the prize is a jackpot prize under a linked gaming system operated under Part 10, in which case the prize is to be paid in accordance with the rules under the links licence concerned), and
 - (b) in the case of a non-monetary prize—must award the prize:
 - (i) within the time stated in the information required to be provided by the regulations with respect to award of such prizes, or
 - (ii) if no such time is stated—within 48 hours of the request.
- (7) If a prize is not awarded or paid immediately after the prizewinner has requested it, the hotelier or club, or an employee of the hotelier or club, must give the prizewinner a written acknowledgment of the prizewinner's entitlement to the prize.

[10] Section 81A

Insert after section 81:

81A Authorisation to destroy approved gaming machine

- (1) A person who destroys, or causes the destruction of, an approved gaming machine is guilty of an offence unless:
 - (a) the person is the manufacturer of the approved gaming machine or the holder of a dealer's licence or seller's licence, and
 - (b) the destruction of the approved gaming machine has been authorised by the Authority under this section and is carried out in accordance with any conditions imposed by the Authority when authorising the destruction or that are prescribed by the regulations, and
 - (c) the person provides such evidence as may be required by the regulations of the destruction.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) The manufacturer of an approved gaming machine or a holder of a dealer's or seller's licence may apply to the Authority in writing for authorisation to destroy, or cause the destruction of, a specified approved gaming machine or approved gaming machines of a class or description.

Note. Under section 64, a device ceases to be an approved gaming machine if an authorisation is given under subsection (2). Accordingly, a person may carry out

actions in destroying a device in accordance with an authorisation that might otherwise be an offence—see for example, sections 77 (1) (e), (f) and (g) and 80 (1) (b).

- (3) The regulations may make provision for or with respect to applications under subsection (2).

[11] Section 92 Updating of applications

Omit the penalty provision.

[12] Section 172 Disciplinary action against licensees

Omit “\$250,000” from paragraph (b) of the definition of *disciplinary action* in section 172 (1).

Insert instead “\$1,000,000”.

[13] Section 210 Regulations

Omit “and disposal” wherever occurring in section 210 (2) (b) and (d).

Insert instead “, disposal and destruction”.

[14] Section 210 (3)

Omit “100 penalty units”. Insert instead “50 penalty units”.

[15] Schedule 1 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Provisions consequent on enactment of Liquor and Gaming Legislation Amendment Act 2018

Definition

In this Part:

amending Act means the *Liquor and Gaming Legislation Amendment Act 2018*.

Existing competency cards

Any competency card that was in force under the *Gaming Machines Regulation 2010* immediately before the insertion of the definition of *recognised competency card* in section 49A by the amending Act is taken to be a competency card within the meaning of that definition.

Existing conditions of approval to conduct RCG training courses

Any condition that applied to an approval to conduct RCG training courses in force immediately before the insertion of section 49B by the amending Act is taken to be a condition of such an approval for the purposes of section 49B as inserted.

Disciplinary action against licensees

Section 172 as amended by the amending Act extends to the taking of disciplinary action against a licensee who has been served with a notice to show cause immediately before the amendment but in respect of whom a decision has not been made under section 172 (4).

1.7 Gaming Machines Regulation 2010

- [1] **Clause 9 Location and operation of gaming machines in hotels**
Omit the clause.
- [2] **Clause 12 General requirement to award or pay prizes**
Omit the clause.
- [3] **Clause 46 Gaming machine advertising and signs—exclusions**
Omit “gaming machine sign” wherever occurring in clause 46 (6), (7) and (9).
Insert instead “gambling-related sign”.
- [4] **Clause 47 Display of outdoor signs advertising gaming machines**
Omit the clause.
- [5] **Clause 49 Prohibition on certain promotional prizes**
Omit the clause.
- [6] **Clause 51 Disclosure of information in player activity statements**
Omit the clause.
- [7] **Clause 55 Offering of inducements to gamble**
Omit clause 55 (c).
- [8] **Clause 58A Definitions**
Omit the definitions of *approved RCG training course*, *interim RCG certificate* and *recognised competency card*.
Insert instead, respectively:
approved RCG training course has the meaning it has in section 49A of the Act.
interim RCG certificate has the meaning it has in section 49A of the Act.
recognised competency card has the meaning it has in section 49A of the Act.
- [9] **Clause 58B Issue and expiry of recognised competency card**
Omit “A” from clause 58B (1).
Insert instead “For the purposes of the definition of *recognised competency card* in section 49A of the Act, a”.
- [10] **Clause 58B (2)**
Omit “for the purposes of this Division”.
- [11] **Clause 58B (5)**
Omit “Division 1 of Part 5 of the *Liquor Regulation 2008*”.
Insert instead “Division 1A of Part 6 of the *Liquor Act 2007*”.
- [12] **Clause 60 Approval of training providers**
Omit clause 60 (6A).

[13] Clause 60A Prohibition on granting interim RCG certificates to unqualified persons

Omit the clause.

[14] Clause 60B Prohibition on providing training courses without approval

Omit the clause.

[15] Clause 94

Omit the clause. Insert instead:

94 Definitions

In this Part:

account card has the meaning it has in section 45B of the Act.

electronic payment gaming machine has the meaning it has in section 45B of the Act.

player account has the meaning it has in section 45B of the Act.

player card has the meaning it has in section 45B of the Act.

Smartcard has the meaning it has in section 45B of the Act.

[16] Clause 104 Disclosure of information in relation to players

Omit the clause.

[17] Schedule 3 Penalty notice offences

Omit the matter relating to section 92 under the heading “**Offences under the Act**”.

Insert in numerical order:

Section 45A (2) and (3)	\$1,100
Section 45B (3)	\$1,100
Section 49B	\$2,750 (in the case of a corporation) \$550 (in the case of an individual)
Section 49C	\$2,750 (in the case of a corporation) \$550 (in the case of an individual)
Section 49D	\$2,750 (in the case of a corporation) \$550 (in the case of an individual)
Section 68A (1)	\$1,100
Section 75A (1)	\$1,100

[18] Schedule 3

Omit the matter relating to clauses 9, 12 (1), 47, 49, 51, 60 (6A), 60A, 60B and 104 under the heading “**Offences under this Regulation**”.

1.8 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Schedule 2 Search warrants under other Acts

Insert in alphabetical order:

Betting and Racing Act 1998, section 33O (to the extent it applies section 27 of the
Gaming and Liquor Administration Act 2007)

[2] Schedule 2

Omit “section 72” from the matter relating to the *Public Lotteries Act 1996*.

Insert instead “section 73 (to the extent it applies section 27 of the *Gaming and Liquor Administration Act 2007*)”.

[3] Schedule 2

Omit “section 95” from the matter relating to the *Totalizator Act 1997*.

Insert instead “section 91E (to the extent it applies section 27 of the *Gaming and Liquor Administration Act 2007*)”.

1.9 Liquor Act 2007 No 90

[1] Section 4 Definitions

Omit the definition of *tertiary institution* from section 4 (1). Insert instead:

tertiary institution means:

- (a) a university, or
- (b) a TAFE establishment within the meaning of the *Technical and Further Education Commission Act 1990*, or
- (c) any higher education provider (within the meaning of Division 16 of Part 2-1 of the *Higher Education Support Act 2003* of the Commonwealth) prescribed by the regulations.

[2] Section 40 Licence applications

Omit the penalty provision.

[3] Section 51 General provisions relating to licence-related authorisations

Omit the penalty provision from section 51 (4).

[4] Section 54A Directions relating to “sale on other premises” authorisations

Omit “50 penalty units” from section 54A (4). Insert instead “100 penalty units”.

[5] Section 74 Sale of stolen goods and possession, use or sale of drugs on licensed premises

Omit “50 penalty units” wherever occurring.

Insert instead “100 penalty units”.

[6] Section 75 Directions to licensees and staff of licensed premises

Omit “50 penalty units” from section 75 (3). Insert instead “100 penalty units”.

[7] Section 84 Order by Authority for long-term closure of licensed premises

Omit the penalty provision from section 84 (7). Insert instead:

Maximum penalty:

- (a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
- (b) for a corporation—250 penalty units.

[8] Section 99 Responsible sale, supply, service or promotion of liquor

Omit section 99 (4).

[9] Section 108 Prohibition on extension of credit for gambling

Omit “50 penalty units”. Insert instead “100 penalty units”.

[10] Section 109 Misrepresentation or misdescription of credit transactions

Omit “50 penalty units”. Insert instead “100 penalty units”.

[11] Part 6, Division 1A

Insert after section 114:

Division 1A Responsible service of alcohol training courses

114A Definitions

In this Division:

approved RSA training course means a course of training with respect to the responsible service of alcohol that is provided:

- (a) by an approved training provider approved by the Secretary in accordance with the regulations in relation to the course, or
- (b) by or on behalf of the Secretary.

approved training provider means a training provider approved by the Secretary in accordance with the regulations to provide training courses with respect to the responsible service of alcohol.

interim RSA certificate means a certificate (in hard copy or electronic form) granted to a person by the Secretary, or by an approved training provider on behalf of the Secretary, following the person’s successful completion of an approved RSA training course, for use by the person in obtaining a recognised competency card.

recognised competency card means a card issued to a person in accordance with the regulations that certifies as to the matters prescribed by the regulations and provides for the expiry of the card in accordance with the regulations.

recognised RSA certification means an interim RSA certificate or a recognised competency card.

114B Conditions of approval to conduct RSA training courses

An approved training provider must comply with such conditions as may be imposed by or under the regulations on the provider’s approval to conduct training courses with respect to the responsible service of alcohol.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

114C Prohibition on granting interim RSA certificates to unqualified persons

An approved training provider must not grant an interim RSA certificate on behalf of the Secretary to any person who has not successfully completed an approved RSA training course conducted by the training provider.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

114D Prohibition on providing training courses without approval

A person must not:

- (a) provide or offer to provide any training course that is held out, whether directly or indirectly, to be a course that will satisfy the requirements imposed by or under the Act for issue of recognised RSA certification, or
- (b) advertise, state or imply in any way that the person is qualified to provide any such course,

unless the person is the Secretary, a person who provides an approved RSA training course on behalf of the Secretary or an approved training provider.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

[12] Section 116B Interpretation

Insert in alphabetical order in section 116B (1):

licensee ban means the exercise by a licensee of premises in a prescribed precinct of a right referred to in section 77 (13) to refuse to admit, or turn out, any person from the premises.

[13] Section 116D Prescribed precinct ID scanner system

Insert after section 116D (1) (a):

- (a1) information of the kind prescribed by the regulations concerning the identity of any person who is the subject of a licensee ban and the circumstances of the ban,

[14] Section 116D (4) (b) (ia)

Insert after section 116D (4) (b) (i):

- (ia) in the case of information relating to a person who is the subject of a licensee ban (in which case the information may be held for the period specified on the system or for the period prescribed by the regulations, whichever is the lesser), or

[15] Section 116D (5) and (6)

Insert after section 116D (4):

- (5) The regulations may make provision for or with respect to the way in which information about persons the subject of a licensee ban may be included and kept on the system.
- (6) The regulations may make provision for or with respect to the inclusion, holding and sharing of information held on the system about persons the subject of a licensee ban.

[16] Section 130A Operation of Division

Insert “or (8)” after “section 117 (1)” in section 130A (1).

[17] Section 130B Interpretation

Omit the definition of *prescribed offence* from section 130B (1). Insert instead:

prescribed offence means an offence under section 117 (1) or (8).

[18] Section 147 Maximum penalties for certain offences

Omit the section.

[19] Schedule 1 Savings and transitional provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Provisions consequent on enactment of Liquor and Gaming Legislation Amendment Act 2018

Definition

In this Part:

amending Act means the *Liquor and Gaming Legislation Amendment Act 2018*.

Duration of licences

The amendments made by the amending Act to the provisions of Division 4 of Part 7 (Special provisions relating to minors) do not apply to a relevant prescribed offence event (within the meaning of that Division) derived from a conviction, payment or making of an order occurring after the commencement of the amendments in respect of a prescribed offence that was committed before that commencement.

Existing competency cards

Any competency card that was in force under clause 39A (1) of the *Liquor Regulation 2008* immediately before the insertion of the definition of *recognised competency card* in section 114A by the amending Act is taken to be a competency card within the meaning of that definition.

Existing conditions of approval to conduct RSA training courses

Any condition that applied to an approval to conduct RSA training courses in force immediately before the insertion of section 114B by the amending Act is taken to be a condition of such an approval for the purposes of section 114B as inserted.

1.10 Liquor Regulation 2008

[1] Clause 39 Definitions

Omit the definitions of *approved RSA training course*, *interim RSA certificate* and *recognised competency card*.

Insert instead, respectively:

approved RSA training course has the meaning it has in section 114A of the Act.

interim RSA certificate has the meaning it has in section 114A of the Act.

recognised competency card has the meaning it has in section 114A of the Act.

[2] Clause 39A Issue and expiry of recognised competency card

Omit “A” from clause 39A (1).

Insert instead “For the purposes of the definition of *recognised competency card* in section 114A of the Act, a”.

[3] Clause 39A (2)

Omit “for the purposes of this Division”.

[4] Clause 47 Conditions of approval to conduct RSA training courses

Omit “An approval” from clause 47 (1).

Insert instead “For the purposes of section 114B of the Act, an approval”.

[5] Clause 47 (1A)

Omit the subclause.

[6] Clause 47A Prohibition on granting interim RSA certificates to unqualified persons

Omit the clause.

[7] Clause 49B Prohibition on providing training courses without approval

Omit the clause.

[8] Part 5A, Division 4

Insert after clause 53W:

Division 4 Prescribed precinct scanner system

53X Licensee bans

(1) In this clause:

system means the prescribed precinct ID scanner system as defined in section 116D of the Act.

(2) For the purposes of section 116D (1) (a1) of the Act, the kind of information that may be included on the system is identification details about persons the subject of a licensee ban.

(3) For the purposes of section 116D (6) of the Act, identification details about persons the subject of a licensee ban in relation to high risk venues in the Kings Cross precinct may be held and stored on the system and shared with other high risk venues in the Kings Cross precinct.

[9] Clause 80C

Insert after clause 80B:

80C Definition of “tertiary institution”—section 4 of Act

For the purposes of paragraph (c) of the definition of *tertiary institution* in section 4 (1) of the Act, the following higher education providers are prescribed:

National Art School (ACN 140179111), Forbes Street, Darlinghurst, NSW 2010

[10] Schedule 2 Penalty notice offences

Omit the matter relating to sections 40 (5) and 51 (4) under the heading “**Offences under the Act**”.

Insert in numerical order:

Section 114B	\$2,750 (in the case of a corporation) \$550 (in the case of an individual)
Section 114C	\$2,750 (in the case of a corporation) \$550 (in the case of an individual)
Section 114D	\$2,750 (in the case of a corporation) \$550 (in the case of an individual)

[11] Schedule 2

Omit the matter relating to clauses 47 (1A), 47A and 49B under the heading “**Offences under this Regulation**”.

1.11 Public Lotteries Act 1996 No 86

[1] Section 4 Definitions

Omit “section 69” from the definition of *inspector* in section 4 (1).

Insert instead “section 71”.

[2] Section 44 Licensee or agent not to accept entry or payment from minor

Omit “20 penalty units” from section 44 (1). Insert instead “50 penalty units”.

[3] Section 45 Person not to enter or subscribe to public lottery on behalf of minor

Omit “20 penalty units” from section 45 (1). Insert instead “50 penalty units”.

[4] Section 46 Minor not to enter public lottery

Omit “5 penalty units”. Insert instead “20 penalty units”.

[5] Part 7, heading

Omit the heading. Insert instead:

Part 7 Ministerial enforcement powers

[6] Part 7, Division 5

Omit the Division.

[7] Part 7A

Insert after section 68:

Part 7A Investigation and enforcement powers generally

69 Definitions

In this Part:

GALA Act means the *Gaming and Liquor Administration Act 2007*.

Secretary has the same meaning as in the *Gaming and Liquor Administration Act 2007*.

70 Purposes for which powers under this Part may be exercised

Powers may be exercised under this Part for the following purposes:

- (a) for determining whether there has been compliance with or a contravention of this Act, and the regulations and instruments made under it,
- (b) for obtaining information or records for purposes connected with the administration of this Act and the regulations and instruments made under it,
- (c) in connection with exercising the functions of an inspector under this Act and the regulations and instruments made under it,
- (d) generally for administering this Act, and the regulations and instruments made under it, and promoting its objects.

71 Appointment and identification of inspectors

- (1) The Secretary may appoint a Public Service employee to be an inspector for the purposes of this Act and the regulations and instruments made under it.
- (2) The Secretary is taken to have been appointed as an inspector.
- (3) The Secretary is to cause each inspector to be issued with a means of identification in the form approved by the Secretary.
- (4) In the course of exercising the functions of an inspector under this Act and the regulations and instruments made under it, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection by the person unless to do so would defeat the purpose for which the functions are to be exercised.

72 Powers of inspectors

An inspector has and may exercise the functions of an inspector under Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act (as applied by section 73) for any of the purposes referred to in section 70.

73 Application of GALA Act

- (1) Sections 14 and 15 of the GALA Act apply to the appointment of an inspector under section 71 in the same way that they apply to the appointment of an inspector under the GALA Act.
- (2) The provisions of Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act and sections 17 (Secrecy) and 37 (Protection from personal liability) apply to and in respect of this Act and the regulations and instruments made under it as if those provisions were part of this Act, but modified so that:
 - (a) references in those provisions to the gaming and liquor legislation were references to this Act and the regulations and instruments made under it, and
 - (b) references in those provisions to "this Act" and "this Part" were references to this Act and this Part, respectively, and
 - (c) references in those provisions to an inspector were references to inspectors appointed under section 71, and
 - (d) references in sections 28 (2) and 30 (2) of the GALA Act to "the Authority" were references to the Secretary, and

- (e) the reference in section 24 (1) of the GALA Act to section 18 were a reference to section 70, and
 - (f) section 35 (2) of the GALA Act does not apply to the extent that it prevents a person from being excused from answering a question on the ground that the answer may tend to incriminate the person, and
 - (g) section 35 (5) (b) of the GALA Act does not apply to the extent that it makes information obtained as a result of an answer given that might incriminate a person admissible.
- (3) For the avoidance of doubt, a prosecution of a person for an offence against a provision of the GALA Act (as applying under this section) is to be taken as if the offence were an offence under this Act.
 - (4) The functions that an inspector has under Part 4 of the GALA Act are, for the purposes of any provision of this Act and the regulations and instruments made under it, taken to be functions under this Act and the regulations and instruments made under it.
 - (5) If an inspector has functions in respect of a matter under both the GALA Act (as applying under this section) and under any other provision of this Act or the regulations made under it, the fact that there is a restriction on the exercise of a function under this Act or the regulations does not of itself operate to restrict the exercise by an inspector of any similar or the same function under the GALA Act.

[8] Part 7, Division 6, heading

Omit the heading.

[9] Part 7B, heading

Insert before section 75:

Part 7B Proceedings for offences

[10] Section 75A

Insert after section 75:

75A Penalty notices

- (1) An inspector may issue a penalty notice to a person if it appears to the inspector that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) However:
 - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 3 of this Act, and
 - (b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 3 of this Act, taken to have been convicted of the offence to which the penalty notice relates.

- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

[11] Schedule 2 Savings, transitional and other provisions

Insert after clause 50:

Part 5 Provisions consequent on enactment of Liquor and Gaming Legislation Amendment Act 2018

51 Definition

In this Part:

amending Act means the *Liquor and Gaming Legislation Amendment Act 2018*.

52 Inspectors

A person who, immediately before the repeal of section 69 by the amending Act, was an inspector for the purposes of this Act is taken, on that repeal, to have been appointed as an inspector under section 71 as inserted by the amending Act.

53 Search warrants

Section 72, as in force immediately before its repeal by the amending Act, continues to apply to a search warrant issued under that section before its repeal.

1.12 Public Lotteries Regulation 2016

Clause 19A

Insert after clause 19:

19A Penalty notices

For the purposes of section 75A of the Act, an offence under section 34 (1) or (4) of the GALA Act as applied by section 73 of the Act is prescribed as an offence for which a penalty notice may be issued and the prescribed penalty for any such offence is \$1,100.

1.13 Registered Clubs Act 1976 No 31

[1] Section 57H Disciplinary powers of Authority

Omit “(not exceeding 3 years)” from section 57H (2) (g).

[2] Schedule 2 Savings, transitional and other provisions

Insert after clause 102:

Part 22 Provisions consequent on enactment of Liquor and Gaming Legislation Amendment Act 2018

103 Disciplinary powers of Authority

Section 57H (2) (g) (as amended by the *Liquor and Gaming Legislation Amendment Act 2018*) extends to a complaint made, but not determined, before the commencement of the amendment.

1.14 Totalizator Act 1997 No 45

[1] Section 5 Definitions

Omit “this Act” from the definition of *inspector*. Insert instead “section 92”.

[2] Section 9 Unlawful conduct of totalizator

Omit the penalty provisions wherever occurring in section 9 (1) and (2). Insert instead:

Maximum penalty:

(a) for an individual:

- (i) 50 penalty units for a first offence, or
- (ii) 100 penalty units or imprisonment for 6 months (or both) for a second or subsequent offence, or

(b) for a corporation:

- (i) 250 penalty units for a first offence, or
- (ii) 1,000 penalty units for a second or subsequent offence.

[3] Section 59 Licensees and contractors to inform Minister of changed circumstances

Omit “100 penalty units”. Insert instead “50 penalty units”.

[4] Section 79

Insert after the heading to Part 7:

79 Interpretation

(1) In this Part:

advertisement includes any information or material in the nature of an advertisement.

publish means disseminate or provide access to the public or a section of the public by oral, visual, written, electronic or other means (for example, by means of newspaper, radio, television, cinema or through the use of the Internet, subscription TV or other on-line communications system).

totalizator advertisement means an advertisement that is directly related to the conduct of a totalizator.

(2) For the purposes of this Part, the publication or communication of a totalizator advertisement to a website that provides the opportunity for, or facilitates or enables, dissemination of information to the public or a section of the public (whether or not the particular publication results in the dissemination of information to the public or a section of the public) constitutes the publication or communication of a totalizator advertisement.

[5] Section 80

Omit the section. Insert instead:

80 Prohibitions on totalizator advertisements

- (1) A licensee or any other person must not publish or communicate, or cause to be published or communicated, whether from in or outside New South Wales, any totalizator advertisement that may be accessible to a person in New South Wales and that contravenes any requirement of this section or the rules.
Maximum penalty:
 - (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (2) A totalizator advertisement must not:
 - (a) encourage a breach of the law, or
 - (b) depict children gambling, or
 - (c) be false, misleading or deceptive, or
 - (d) suggest that winning will be a definite outcome of participating in gambling activities, or
 - (e) suggest that participation in gambling activities is likely to improve a person's financial prospects, or
 - (f) promote the consumption of alcohol while engaging in gambling activities, or
 - (g) be published otherwise than in accordance with decency, dignity and good taste and, if the totalizator advertisement takes the form of a television advertisement, in accordance with the *Commercial Television Industry Code of Practice* registered by the Australian Communications and Media Authority as in force on the day on which the totalizator advertisement is published, or
 - (h) include any inducement to participate, or to participate frequently, in any gambling activity (including an inducement to open a betting account).
- (3) A reference to an inducement in subsection (2) (h):
 - (a) includes an inducement that involves an offer that is not available to persons resident in New South Wales, and
 - (b) does not include an inducement published or communicated by a licensee to a person who has a betting account with the licensee at the time the advertisement is published or communicated to the person.
- (4) A licensee or any other person must not publish, or cause to be published, any totalizator advertisement in writing in a newspaper, magazine, poster or other printed form that does not contain the advisory statement prescribed by the regulations for the purposes of this subsection.
Maximum penalty:
 - (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (5) A licensee must not enter into or extend the duration of any contract or arrangement for the publication or communication of a totalizator advertisement that contravenes this section.

Maximum penalty:

- (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (6) A person (other than a licensee) does not commit an offence under this section in respect of the publication or communication of a totalizator advertisement if:
- (a) the totalizator advertisement was in the form provided (directly or indirectly) or approved by or on behalf of a licensee for the purposes of its publication or communication, and
 - (b) the person has not been notified by or on behalf of the Minister that the publication or communication of the totalizator advertisement may contravene this section.

[6] Sections 80A and 80B

Insert after section 80:

80A Totalizator advertisements during sporting fixtures

- (1) This section applies to a sporting fixture that is, or is part of, a sporting event for which there is a sports controlling body.
- (2) A person must not publish any totalizator advertisement in relation to a sporting fixture during the sporting fixture including during any breaks in the sporting fixture.

Maximum penalty:

- (a) for an individual—50 penalty units, or
 - (b) for a corporation—500 penalty units.
- (3) This section does not apply to an extended sporting fixture unless the Minister has published a notice in the Gazette that provides that this section is to apply to that fixture. The Minister may publish a notice if the Minister considers it to be in the public interest.
 - (4) This section does not apply to the following advertisements:
 - (a) an advertisement to the extent that it is published on the internet,
 - (b) an advertisement to the extent that it is published in gambling premises.
 - (5) For the avoidance of doubt, an advertisement that is in place before a sporting fixture commences (such as an advertisement on a billboard) is taken, for the purposes of this section, not to be published during the sporting fixture.
 - (6) In this section:

extended sporting fixture means:

- (a) a sporting fixture that is scheduled to take place over a period exceeding 4 hours, or
- (b) a sporting fixture that takes place on multiple days.

gambling premises means a hotel, racing club or registered club within the meaning of the *Liquor Act 2007* or premises operated by a licensee (or an agent of a licensee) for the purposes of the conduct of a totalizator.

sporting event has the same meaning as in section 17A of the *Betting and Racing Act 1998*.

sporting fixture means a single match, game, contest, race (but not a race within the meaning of the *Betting and Racing Act 1998*) or fight, whether taking place on a single day or multiple days.

sports controlling body for a sporting event means the sports controlling body prescribed for the sporting event under section 17B of the *Betting and Racing Act 1998*.

80B Gambling inducements

A licensee or any other person must not offer or supply, or cause to be offered or supplied, any free or discounted liquor as an inducement to participate, or to participate frequently, in any totalizator betting.

Maximum penalty:

- (a) for an individual—50 penalty units, or
- (b) for a corporation—500 penalty units.

[7] Part 8, heading

Omit the heading. Insert instead:

Part 8 Minister's investigation powers

[8] Part 8, Division 1, heading

Omit the heading.

[9] Part 8A

Insert after section 91:

Part 8A Investigation and enforcement powers generally

91A Definitions

In this Part:

GALA Act means the *Gaming and Liquor Administration Act 2007*.

Secretary has the same meaning as in the *Gaming and Liquor Administration Act 2007*.

91B Purposes for which powers under this Part may be exercised

Powers may be exercised under this Part for the following purposes:

- (a) for determining whether there has been compliance with or a contravention of this Act, and the regulations and instruments made under it,
- (b) for obtaining information or records for purposes connected with the administration of this Act and the regulations and instruments made under it,
- (c) in connection with exercising the functions of an inspector under this Act and the regulations and instruments made under it,
- (d) generally for administering this Act, and the regulations and instruments made under it, and promoting its objects.

91C Appointment and identification of inspectors

- (1) The Secretary may appoint a Public Service employee to be an inspector for the purposes of this Act and the regulations and instruments made under it.
- (2) The Secretary is taken to have been appointed as an inspector.
- (3) The Secretary is to cause each inspector to be issued with a means of identification in the form approved by the Secretary.
- (4) In the course of exercising the functions of an inspector under this Act and the regulations and instruments made under it, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection by the person unless to do so would defeat the purpose for which the functions are to be exercised.

91D Powers of inspectors

An inspector has and may exercise the functions of an inspector under Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act (as applied by section 91E) for any of the purposes referred to in section 91B.

91E Application of GALA Act

- (1) Sections 14 and 15 of the GALA Act apply to the appointment of an inspector under section 91C in the same way that they apply to the appointment of an inspector under the GALA Act.
- (2) The provisions of Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act and sections 17 (Secrecy) and 37 (Protection from personal liability) apply to and in respect of this Act and the regulations and instruments made under it as if those provisions were part of this Act, but modified so that:
 - (a) references in those provisions to the gaming and liquor legislation were references to this Act and the regulations and instruments made under it, and
 - (b) references in those provisions to "this Act" and "this Part" were references to this Act and this Part, respectively, and
 - (c) references in those provisions to an inspector were references to inspectors appointed under section 91C, and
 - (d) references in sections 28 (2) and 30 (2) of the GALA Act to "the Authority" were references to the Secretary, and
 - (e) the reference in section 24 (1) of the GALA Act to section 18 were a reference to section 91B, and
 - (f) section 35 (2) of the GALA Act does not apply to the extent that it prevents a person from being excused from answering a question on the ground that the answer may tend to incriminate the person, and
 - (g) section 35 (5) (b) of the GALA Act does not apply to the extent that it makes information obtained as a result of an answer given that might incriminate a person admissible.
- (3) For the avoidance of doubt, a prosecution of a person for an offence against a provision of the GALA Act (as applying under this section) is to be taken as if the offence were an offence under this Act.
- (4) The functions that an inspector has under Part 4 of the GALA Act are, for the purposes of any provision of this Act and the regulations and instruments made under it, taken to be functions under this Act and the regulations and instruments made under it.

- (5) If an inspector has functions in respect of a matter under both the GALA Act (as applying under this section) and under any other provision of this Act or the regulations made under it, the fact that there is a restriction on the exercise of a function under this Act or the regulations does not of itself operate to restrict the exercise by an inspector of any similar or the same function under the GALA Act.

[10] Part 8, Division 2

Omit the Division other than section 99 (Keeping and retention of records by licensee) and insert section 99 (renumbered as section 103B) before section 104 in Part 9.

[11] Part 8, Division 3, heading

Omit the heading.

[12] Part 8B, heading

Insert before section 100:

Part 8B Proceedings for offences

[13] Section 100A

Insert after section 100:

100A Penalty notices

- (1) An inspector may issue a penalty notice to a person if it appears to the inspector that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.
Note. The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) However:
 - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 3 of this Act, and
 - (b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 3 of this Act, taken to have been convicted of the offence to which the penalty notice relates.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

[14] Schedule 2 Savings, transitional and other provisions

Insert after Part 7:

Part 8 Provisions consequent on enactment of Liquor and Gaming Legislation Amendment Act 2018

25 Definition

In this Part:

amending Act means the *Liquor and Gaming Legislation Amendment Act 2018*.

26 Inspectors

A person who, immediately before the repeal of section 92 by the amending Act, was an inspector for the purposes of this Act is taken, on that repeal, to have been appointed as an inspector under section 91C as inserted by the amending Act.

27 Search warrants

Section 95, as in force immediately before its repeal by the amending Act, continues to apply to a search warrant issued under that section before its repeal.

1.15 Totalizator Regulation 2012

[1] Clause 10A

Insert after clause 10:

10A Advisory statement

The following advisory statement is prescribed for the purposes of section 80 (4) of the Act:

Think! About your choices

Call Gambling Help

1800 858 858

www.gamblinghelp.nsw.gov.au

[2] Part 3, Divisions 2 Totalizator advertising and inducements

Omit the Division.

[3] Clause 15 Remedial orders

Omit “section 80 (1)” from clause 15 (a). Insert instead “sections 80, 80B”.

[4] Clause 15 (b)

Omit “7, 9, 12 and 13”. Insert instead “7 and 9”.

[5] Clause 15C

Insert after clause 15B:

15C Penalty notices

For the purposes of section 100A of the Act, an offence under section 34 (1) or (4) of the GALA Act as applied by section 91E of the Act is prescribed as

an offence for which a penalty notice may be issued and the prescribed penalty for any such offence is \$1,100.

[Second reading speech made in—
Legislative Assembly on 6 March 2018
Legislative Council on 14 March 2018]