

GAMING ACT 1983

No. 81 of 1983

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GAMING ACT 1983

No. 81 of 1983



AN ACT to provide for the control of gaming.

[Royal Assent 11 January 1984]

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—This Act may be cited as the *Gaming Act 1983*.

Short title.

2—This Act shall commence on 13th February 1984.

Commence-
ment.

3—This Act is incorporated with, and shall be read as one with, the *Racing and Gaming Act 1952*.

Incorporation.

Interpretation.

4—In this Act, unless the contrary intention appears—

“Commission” means the Tasmanian Gaming Commission constituted by section 5;

“functions” includes duties.

Appointment and incorporation of Commissioner.

5—(1) The Governor may, subject to this Act, appoint a Commissioner for Gaming who is, by this subsection, incorporated as a corporation sole with the corporate name “Tasmanian Gaming Commission”.

(2) The Commission—

(a) has perpetual succession;

(b) shall have a common seal;

(c) may take proceedings, and be proceeded against, in its corporate name;

(d) may, subject to this Act, purchase, exchange, take on lease, hold, hire, dispose of by way of lease or sale, and otherwise deal with property both real and personal;

(e) may do and be subject to all other things that bodies corporate may, by law, do and be subject to and that are necessary for or incidental to the purposes for which it is constituted; and

(f) has the functions imposed, and the powers conferred, on it by or under this or any other Act.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and shall presume that it was duly affixed.

(4) Schedule 1 has effect with respect to the term of office and conditions of service of the Commissioner.

Power of Minister to give directions to Commission.

6—(1) Subject to subsections (4) and (5), the Minister may give to the Commission any direction that he considers to be necessary or desirable with respect to the performance or exercise by the Commission of its functions or powers under this Act or any other Act.

(2) Without prejudice to the generality of subsection (1), the Minister may give to the Commission directions under that subsection with respect to matters of policy, including directions concerning the general nature and extent of the operations of the Commission.

(3) The Commission is not bound by a direction given under subsection (1) unless the direction is in writing and signed by the Minister.

(4) The power conferred on the Minister by subsection (1) shall not be exercised so as—

- (a) to require the Commission to do anything that it is not empowered to do by this Act or any other Act;
- (b) to prevent the Commission from performing any function that it is expressly required by this Act or any other Act to perform, whether conditionally or unconditionally; or
- (c) to interfere with the formation by the Commission of any opinion or belief in relation to any matter that is to be determined as a prerequisite to the performance or exercise by the Commission of any of its functions or powers under this Act or any other Act.

(5) Subsection (1) does not authorize the Minister to give a direction to the Commission preventing it from—

- (a) granting or refusing to grant; or
- (b) exercising its power under this Act or any other Act to cancel, revoke, or suspend,

any kind of certificate of registration, licence, approval, or other authority that it may grant or issue under this Act.

(6) The Minister may, at any time, by notice in writing given to the Commission, revoke a direction given to it under subsection (1).

(7) The fact that the Minister has power to give a direction to the Commission under subsection (1), or gives such a direction to the Commission, does not have the effect of—

- (a) making the Commission the servant or agent of the Crown for the purposes of this Act or any other Act; or
- (b) conferring on the Commission any status, privilege, or immunity of the Crown.

7—(1) The Commission—

- (a) may do all such acts and things as it may consider necessary or desirable for the proper regulation and control of—

- (i) casinos;

General
powers of
Commission.

- (ii) lotteries; and
- (iii) such other activities of a gaming nature as may be prescribed; and

(b) shall have, and may exercise, such other powers, and shall perform such other functions, as are conferred or imposed on it by or under this Act or any other Act.

(2) Without limiting the generality of subsection (1), the Commission shall have responsibility for the administration of Part VI of the *Racing and Gaming Act 1952*.

(3) The Commission may make such orders, give such notices and directions, and do such other acts and things, as appear to it to be necessary or desirable for giving effect to this section or for the exercise of any of the powers conferred, or the performance of any of the functions imposed, on the Commission by or under this or any other Act.

Staff.

8—(1) The Commission may, with the approval of the Minister, appoint a secretary to the Commission and such other officers as the Commission may think necessary for the proper exercise and performance by the Commission of its powers and functions under this Act.

(2) Each person (other than the Commissioner) appointed for the purposes of the supervision and control of casino operations as provided by clause 8 (c) of the agreement contained in the Schedule to the *Wrest Point Casino Licence and Development Act 1968* and continuing as so appointed at the commencement of this Act shall, by virtue of this section and without further authority, be an officer of the Commission with the designation or position of “Senior Gaming Inspector”, “Gaming Inspector” or “Government Casino Controller” (as the case requires) and, while he continues as such an officer, shall do so in all respects and for all purposes (subject to his duties pursuant to his appointment for the purposes of the supervision and control of casino operations) as if he had been appointed under the authority of subsection (1).

(3) For the purposes of any Act (including this Act), a person appointed to be an officer of the Commission by force of subsection (2) shall be deemed to have been appointed such an officer under the authority of subsection (1) at the time he was appointed for the purposes of the supervision and control of casino operations.

(4) Until the making of a salary determination by the appropriate authority in relation to an officer of the Commission referred to in subsection (2), that officer shall be paid such salary and allowances as the Commission may determine but in no case shall that officer receive from the Commission a lesser salary than that payable to him at the commencement of this Act.

(5) Schedule 2 has effect with respect to appointment and terms and conditions of employment of officers of the Commission.

9—(1) Except as otherwise expressly provided in this Act, all money received by or on behalf of the Commission shall be paid into the Consolidated Revenue Fund and the expenses of the Commission shall be paid out of money provided by Parliament for the purpose. Finances of the Commission: accounts and records.

(2) All money required under this section to be paid into the Consolidated Revenue Fund shall be paid to the Treasurer.

(3) The Commission shall cause to be kept proper accounts and records in relation to all of its operations and shall do all things necessary to ensure that all payments from its funds are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities of the Commission.

(4) As soon as practicable after 30th June in each year, the Commission shall prepare a statement of accounts, in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position of the Commission as at that date and the transactions of the Commission with respect to the period of 12 months ending on that date.

10—The accounts and records of the Commission are subject to the *Audit Act* 1918. Audit.

11—(1) Within 3 months after the end of each financial year, the Commission shall submit to the Minister a report of its operations during that financial year. Commission to submit annual report to Minister.

(2) The Minister shall cause a copy of any report submitted to him under subsection (1) to be laid on the table of each House of Parliament within the first 14 sitting days after it is received by him.

(3) For the purpose of subsection (2), sitting days shall be counted whether or not they occur during the same session of Parliament.

Protection for
Commissioner
and staff.

12—(1) Where the Commissioner for Gaming or any officer for the time being appointed under section 8 does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, he shall not be personally subjected to any action, liability, claim, or demand in respect of that act or omission.

(2) Nothing in subsection (1) shall be construed as precluding the Commission itself from being subject to any action, liability, claim, or demand.

Power of
delegation of
Commission.

13—(1) The Commission may, by instrument in writing, delegate to an officer appointed under section 8 the performance or exercise of such of the functions and powers (other than this power of delegation) as are specified in the instrument, and may, by a similar instrument, revoke wholly or in part any such delegation.

(2) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation under this section, the Commission may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Commission and shall be deemed to have been done by or to the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

14—(1) The Minister administering the *Wrest Point Casino Licence Development Act* 1968 and the Minister administering the *Northern Casino Act* 1978 may by order delegate to the Commission any of their respective powers and functions under those Acts and may likewise revoke or amend such delegations. Minister's power of delegation in respect of casinos.

(2) Orders under this section are not statutory rules within the meaning of the *Rules Publication Act* 1953.

SCHEDULE 1

Section 5

PROVISIONS WITH RESPECT TO TERM OF OFFICE AND CONDITIONS OF SERVICE OF COMMISSIONER

Appointment of Commissioner.

1—The Commissioner shall be appointed for a term, not exceeding 5 years, specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for a term, not exceeding 5 years, specified in the instrument of his re-appointment.

Age of Commissioner.

2—A person who is of or above the age of 65 years shall not be appointed as Commissioner or continue in that office.

Commissioner to hold office on terms and conditions specified in instrument of appointment.

3—Subject to the provisions of this Schedule, the Commissioner shall hold office on such terms and conditions as may be specified in the instrument of his appointment.

Commissioner not to engage in paid employment outside duties of his office.

4—The Commissioner shall not, during his term of office, engage in any paid employment outside the duties of his office except with the approval of the Governor.

Public Service Act 1973 not to apply.

5—The provisions of the *Public Service Act 1973* do not apply to or in respect of the appointment by the Governor of the Commissioner and the Commissioner is not subject to the provisions of that Act during his term of office as Commissioner.

Remuneration of Commissioner.

6—The Commissioner is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine in respect of him.

Commissioner deemed to be employee for purposes of certain Acts.

7—The Commissioner shall be deemed to be an employee for the purposes of the *Retirement Benefits Act 1982* and the *State Employees (Long-Service Leave) Act 1950*.

Vacation of office.

8—(1) The Commissioner shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if without the approval of the Governor he engages during his term of office in any paid employment outside the functions of his office;
- (c) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts his resignation;

- (d) if he becomes bankrupt, applies to take the benefit of any laws for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any assignment of his remuneration or estate for their benefit;
- (e) if he becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;
- (f) if he is convicted in this State of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in this State of an offence which, if committed in this State, would be a crime or an offence so punishable;
- (g) if he absents himself from duty for a period exceeding 14 days except—
 - (i) on leave granted by the Minister; or
 - (ii) through illness or other unavoidable cause;
- (h) if he is removed from office by the Governor under subclause (2);
or
- (i) on his attaining the age of 65 years.

(2) The Governor may remove the Commissioner from office for misbehaviour, neglect of duty, or incompetence.

9—(1) If an officer of the Public Service is appointed to the office of Commissioner under this Act, he is entitled to retain all his existing and accruing rights as if his service in that office were a continuation of his service as an officer of the Public Service.

Commissioner entitled to retain certain rights in certain circumstances.

(2) Where a person referred to in subclause (1) ceases to hold the office of Commissioner and becomes an officer of the Public Service, his service in that office shall be regarded as service in a permanent capacity in the Public Service for the purposes of determining his rights as an officer of the Public Service.

(3) In this clause—

“ officer of the Public Service ” means a person employed in any capacity in any branch of the Public Service, but does not include a person temporarily employed;

“ Public Service ” has the meaning assigned to that expression in the *Public Service Act 1973*.

SCHEDULE 2

Section 8

PROVISIONS WITH RESPECT TO APPOINTMENT AND TERMS AND CONDITIONS OF EMPLOYMENT OF OFFICERS AND EMPLOYEES OF THE COMMISSION

Age of officers.

1—A person who has attained the age of 65 years shall not be appointed and employed as an officer of the Commission, and an officer of the Commission shall cease to be employed as such on attaining that age.

Officers to perform the functions determined by Commission.

2—An officer of the Commission shall perform such functions as the Commission may from time to time determine.

Certain terms and conditions of employment of officers to be determined by Commission.

3—Subject to the provisions of this Schedule, the terms and conditions of employment (including remuneration, allowances, and leave) of officers of the Commission shall, subject to any award or industrial agreement relating to persons engaged in the work for which they are appointed and employed, be determined by the Commission.

Officers not subject to *Public Service Act 1973*, &c.

4—(1) An officer of the Commission—

- (a) in his capacity as such an officer, is not subject to the provisions of the *Public Service Act 1973*; and
- (b) shall be deemed to be an employee within the meaning of the *Retirement Benefits Act 1982*.

(2) The Commission shall be deemed to be a State authority within the meaning of the *State Employees (Long-Service Leave) Act 1950* and, in relation to officers of the Commission, the Commission shall be deemed to be the prescribed authority for the purposes of that Act.

Provisions applicable where officer of Public Service is appointed as officer of Commission.

5—(1) If an officer of the Public Service is appointed and employed under section 8 as an officer of the Commission, he is entitled to retain all his existing and accruing rights as if his service as an officer of the Commission were a continuation of his service as an officer of the Public Service.

(2) Where a person appointed as an officer of the Commission was, immediately before his appointment, an officer of the Public Service, sections 32 and 33 of the *Public Service Act 1973* shall continue to apply in respect of that person as if his service as an officer of the Commission were service as an officer of the Public Service and, for the purpose of those sections, he shall be deemed to be an officer of the Public Service while he remains an officer of the Commission.

(3) Where a person referred to in subclause (2) ceases to be an officer of the Commission and becomes an officer of the Public Service, his service as an officer of the Commission shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service.

(4) In this clause—

“ officer of the Public Service ” means a person employed in any capacity in any branch of the Public Service but does not include a person temporarily employed;

“ Public Service ” has the meaning assigned to that expression in the *Public Service Act 1973*.

