

# **Casino Control Bill**

## **EXPLANATORY MEMORANDUM**

### **PART 1—PRELIMINARY**

*Clause 1* sets out the purpose of the Bill.

*Clause 2* provides for the Act to come into operation on a day or days to be proclaimed.

*Clauses 3 to 5* contain definitions of terms used in the Bill.

### **PART 2—LICENSING OF CASINOS**

*Clause 6* declares licensed casinos to be lawful.

*Clause 7* enables the Minister to give directions to the Casino Control Authority on any of the following:

- (a) the maximum number of casinos;
- (b) permissible locations for casinos;
- (c) the required style and size of casinos;
- (d) any other prescribed matter involving casinos.

The Casino Control Authority must not grant a licence if to do so would be inconsistent with any direction.

*Clause 8* provides for applications for a casino licence to be on the forms and contain information required by the Authority.

*Clause 9* provides that the Authority must not grant a licence unless the applicant and the associates of the applicant are suitable persons and sets out the matters the Authority must take into account in making a decision.

*Clause 10* requires the Authority to undertake investigations necessary to enable it to properly consider the application. The Authority may require any person it is investigating to consent to having fingerprints, etc. taken. If a person refuses, the Authority may refuse to consider the application.

*Clause 11* enables the Authority to require an applicant or an associate to provide information, records, etc. relevant to an investigation. If the person refuses, the Authority may refuse to consider the application.

*Clause 12* requires the applicant for a casino licence to notify the Authority if a change occurs in the information provided to the Authority prior to a decision being taken on the licence application.

*Clause 13* requires the Authority to make a decision on a licence application and provides that it is not required to give reasons for its decision. A licence may be granted on such terms as the Authority thinks fit.

*Clause 14* provides for the Authority, with the approval of the Minister, to enter into an exclusivity agreement in connection with the grant of a casino licence.

*Clause 15* prohibits the Authority from granting a licence unless there is a management agreement in place between the proposed operator and the Minister.

*Clause 16* enables licence conditions to be amended by the Authority or by the operator making a request for amendment to the Authority.

*Clause 17* requires the boundaries of a casino to be defined by the casino licence at the time it is granted. The Authority may redefine the boundaries from time to time.

*Clause 18* provides that a casino licence remains in force for the period for which it is granted unless it is cancelled or surrendered.

*Clause 19* prohibits a casino operator from mortgaging, etc. the casino licence without the approval of the Authority.

*Clause 20* enables the Authority to cancel or suspend a casino licence, fine the operator up to \$1 million or issue a letter of censure.

*Clause 21* enables the casino operator to surrender the licence but only if the Authority consents.

*Clause 22* provides for the appointment of a manager of a casino by the Authority if the casino licence is cancelled or suspended.

## **PART 3—SUPERVISION AND CONTROL OF CASINO OPERATORS**

### **Division 1—Directions, investigations, etc.**

*Clause 23* enables the Authority to give directions concerning the conduct, supervision or control of operations in the casino to the casino operator.

*Clause 24* provides for the Authority to initiate an investigation at any time, and must at the request of the Minister investigate, a casino. The investigation could include casino operations, the operator and persons who could affect the exercise of functions in relation to the casino.

*Clause 25* requires the Authority to investigate whether the casino operator remains a suitable person to hold a licence and if it is in the public interest that the licence should remain in force.

*Clause 26* enables the Authority to require the casino operator, or a person associated with the operator, to provide information, records or attend before the Authority.

*Clause 27* provides that the Supreme Court may punish as a contempt any failure to comply with any such requirement.

*Clause 28* requires certain changes in the casino operator's situation to be notified to the Authority and other changes which must be approved by the Authority. This would apply, for example, to a change of directors in the operator.

### **Division 2—Contracts**

*Clause 29* contains definitions of terms used in this Division.

*Clause 30* requires that certain contracts proposed to be entered into by the casino operator to be approved by the Authority.

*Clause 31* requires notice to be given to the Authority when certain contracts are entered into by the casino operator.

*Clause 32* enables the Authority to serve a show cause notice why a contract between the casino operator and another party should not be terminated.

*Clause 33* specifies the effects of termination of a contract under this Division.

*Clause 34* provides that it is an offence to give effect to a terminated contract.

*Clause 35* requires parties to certain contracts to provide information or records or appear before the Authority if requested.

### **Division 3—Injunctions**

*Clause 36* provides for the Supreme Court to grant an injunction to prevent a contravention of the Act or a condition of the casino licence.

## **PART 4—LICENSING OF CASINO EMPLOYEES**

*Clause 37* contains definitions of terms used in this Part.

*Clause 38* requires persons exercising certain functions in relation to a casino to have a licence.

*Clause 39* requires that an application for a licence be in a form approved by the Director of Casino Surveillance and providing for other information to accompany the application. The applicant may be required to submit fingerprints, photograph, etc.

*Clause 40* enables the Director or the Authority to require a person associated with the casino operator or a casino employee to apply for a licence.

*Clause 41* requires the applicant for a licence to notify the Director if a change occurs in the information provided to the Director prior to a decision being taken on the licence application.

*Clause 42* enables the Director to require an applicant or an associate to provide information, records, etc. relevant to the application. If the person refuses, the Director may refuse to consider the application.

*Clause 43* requires the Director to investigate each application. If the Director decides to refuse the application, the applicant may appeal to the Authority.

*Clause 44* requires the Director to consider the application and take into account the results of the investigation in deciding whether or not to issue a licence.

*Clause 45* provides that the licence is subject to any condition imposed by the Director and conditions may be varied or revoked by the Director.

*Clause 46* requires licensed employees to wear identification approved by the Director unless exempted by the Director.

*Clause 47* enables the Director to issue a provisional licence pending a decision on an application for a licence.

*Clause 48* provides for a licence to remain in force for 12 months unless it is cancelled or surrendered earlier.

*Clause 49* applications for a licence renewal are subject to the same procedure as for the issue of a licence.

*Clause 50* applications for a variation of licence are subject to the same procedure as for the issue of a licence.

*Clause 51* enables the Director to issue a replacement licence.

*Clause 52* enables the Authority to censure the licensee, or vary, cancel or suspend a licence.

*Clause 53* enables the Director to suspend a licence if the licensee has been charged with an offence against the Act.

*Clause 54* provides that during a period of suspension, the licensee is deemed not to have a licence. The Authority may terminate or reduce the period of suspension.

*Clause 55* requires the casino operator to terminate the employment of a licensee if notified by the Authority that the person's licence has been cancelled or suspended.

*Clause 56* requires the casino operator to provide information relating to licensees.

*Clause 57* requires the holder of a licence to notify the Director of a change in the situation of the licensee of a kind specified by the Director.

*Clause 58* requires the casino operator to provide training for licensed employees.

## **PART 5—CASINO OPERATIONS**

*Clause 59* provides for the casino layout to be approved by the Authority.

*Clause 60* provides for the Authority to approve the games and rules of games to be played in a casino.

*Clause 61* enables the Authority to give directions to a casino operator as to the number and type of games to be available in the casino.

*Clause 62* provides for the Director to investigate and approve gaming equipment for use in a casino.

*Clause 63* enables the Director to direct a casino operator to rectify or destroy unsatisfactory gaming equipment.

*Clause 64* specifies certain matters to be complied within the conduct of gaming in the casino such as dealing cards from a card shoe.

*Clause 65* requires the casino operator to have the casino open to the public for gaming at the times and on the days directed by the Authority.

*Clause 66* requires the casino operator to provide certain assistance to casino patrons such as making available a copy of the rules of the games played.

*Clause 67* requires all security equipment and procedures to be in operation at all relevant times.

*Clause 68* provides that wagers are to be made by money or chips and that the operator or an employee may not extend credit for gaming.

*Clause 69* provides for regulations to be made prohibiting or regulating junkets for the promotion of gaming in a casino.

*Clause 70* provides that a person, except an inspector, remains in a casino only by licence of the casino operator.

*Clause 71* enables the police to enter the parts of the casino open to the public and, with the authority of the Authority, Director or an inspector, any other part of a casino.

*Clause 72* enables the Director, the casino operator or the person in charge of a casino to prohibit a person from entering a casino.

*Clause 73* allows the person prohibited from entering a casino under *Clause 72* to appeal to the Authority.

*Clause 74* enables the Chief Commissioner of Police to exclude a person from entering a casino.

*Clause 75* provides for an exclusion order to remain in force until it is revoked.

*Clause 76* requires the casino operator to prepare a daily list of excluded persons and provide a copy to an inspector on duty. The list is not to be available publicly.

*Clause 77* prohibits a person who is the subject of an exclusion order from entering or remaining in the casino.

*Clause 78* requires a casino operator, a person in charge of a casino or an employee who knows a person who is the subject of an exclusion order is in the casino must notify an inspector to have the person removed.

*Clause 79* certain persons such as casino employees and inspectors (except in the course of their duties) must not gamble in a casino.

*Clause 80* prohibits devices such as card counters, counterfeit chips, loaded dice or marked cards in a casino.

*Clause 81* enables an inspector to detain a person suspected of committing an offence until the arrival of police.

## **PART 6—MINORS**

*Clause 82* contains definitions of terms used in this Part.

*Clause 83* provides that this Part only applies to a casino during opening hours.

*Clause 84* prohibits a minor from entering a casino.

*Clause 85* provides that if a minor enters a casino, the casino operator is guilty of an offence. If a minor enters a casino the operator must notify an inspector who is to remove the minor from the premises.

*Clause 86* requires a casino operator or employee to refuse entry to a person reasonably suspected of being a minor.

*Clause 87* provides that proof of age may be demanded.

*Clause 88* it is an offence for a minor to use false evidence of age.

*Clause 89* enables the Authority to require the casino operator to display signs relating to the exclusion of persons under the age of 18.

*Clause 90* a minor may not be imprisoned or detained in a detention centre for failing to pay a penalty under this Act.

*Clause 91* the onus of proof is on the person asserting that the person is over 18 years.

*Clause 92* minors who are apprentices are permitted entry into a casino but only for the purposes of receiving training or instruction as an apprentice.

## **PART 7—CASINO REGULATION**

### **Division 1—Preliminary**

*Clause 93* contains definitions of terms used in this Part.

### **Division 2—Director of Casino Surveillance**

*Clause 94* there is to be a Director of Casino Surveillance appointed by the Governor in Council.

*Clause 95* provides for the terms of appointment of the Director.

*Clause 96* requires that the Director is to be paid the remuneration and allowances fixed by the Governor in Council.

*Clause 97* enables the Governor in Council to appoint an acting Director with all the powers, functions and duties of the Director.

*Clause 98* enables the Director to delegate all or any of the powers of the Director.

*Clause 99* provides that the Governor in Council may remove the Director.

*Clause 100* provides that the Director may resign office in writing delivered to the Governor in Council.

*Clause 101* sets out the functions of the Director.

### **Division 3—Inspectors**

*Clause 102* enables the Director to appoint persons of good reputation to be inspectors. A person is not eligible to be appointed if the person has been employed by or significantly associated with a casino operator at any time during the preceding 4 years, unless the Director otherwise approves.

*Clause 103* the Director has all the powers of an inspector.

*Clause 104* inspectors are required to have an identification card approved by the Director with them.

*Clause 105* provides that inspectors may enter and remain on casino premises for the purposes of carrying out their functions.

*Clause 106* lists the functions of inspectors.

*Clause 107* requires an inspector to investigate complaints from casino patrons and report to the Director and the complainant.

*Clause 108* details the powers of the inspectors including inspecting gaming records and equipment and entering premises (other than the casino) in which there is gaming equipment or records with the approval of the Director and the owner or under a search warrant.

*Clause 109* enables an inspector to apply to a magistrate for a search warrant in relation to offences under this Act relating to gaming equipment or records.

*Clause 110* provides that it is an offence to hinder, obstruct, etc inspectors in the course of inspectors undertaking their functions under the Act.

*Clause 111* prohibits a person who was an inspector from being employed by or significantly associated with a casino operator for 4 years, except with the consent of the Director.

## **PART 8—FEES, TAXATION ETC.**

*Clause 112* requires the casino operator to pay a licence fee to be fixed by regulations. The fee may be in the form of an up-front fee or an annual fee or a combination of both.

*Clause 113* requires the casino operator to pay a casino tax which is to be fixed by regulation. The tax may only apply for the first three years after this provision comes into operation.

*Clause 114* requires the casino operator to pay a community benefit levy to be fixed by regulation.

*Clause 115* provides for the monies collected under the community benefit levy to be paid into the Hospitals and Charities Fund.

*Clauses 116 and 117* provide for the payment of interest on amounts overdue on the licence fee, casino tax or the community benefit levy.

*Clause 118* any amount payable under this Part may be recovered in a court of competent jurisdiction.

*Clause 119* provides that the casino tax is not payable for the period during which a manager has been appointed by the Authority.

*Clause 120* contains offences relating to revenue.

## **PART 9—CASINO INTERNAL CONTROLS**

*Clause 121* provides for the Authority to approve the system of internal controls and administrative and accounting procedures for a casino.

*Clause 122* contains details of the matters which must be included in the system of internal controls.

*Clause 123* contains provisions relating to bank accounts to be kept by the casino operator and the powers of inspectors to require banks to provide statements of these accounts. The inspector must first obtain the approval of the Authority before exercising this power.

*Clause 124* requires the casino operator to keep proper accounts.

*Clause 125* the casino operator must prepare financial statements and accounts for the 12 month period determined by the Authority.

*Clause 126* unless exempted by the Authority, the casino operator must keep all documents relating to the operations of the casino at the casino and retain them for at least 7 years.

*Clause 127* requires the casino operator to have the accounts audited by a person approved by the Authority and a copy of the auditor's report is to be lodged with the Authority.

*Clause 128* requires the casino operator to submit reports on the operations of the casino to the Authority at such times as are prescribed.

## **PART 10—VICTORIAN CASINO CONTROL AUTHORITY**

*Clause 129* defines “appointed member” to be a member other than the Chairperson.

*Clause 130* constitutes the Authority as a body corporate.

*Clause 131* the members of the Authority are the Chairperson and 4 members appointed by the Governor in Council. The person appointed Chairperson must be a legal practitioner or a Magistrate of at least 10 years standing. A person appointed as a member is to have appropriate knowledge, experience or expertise to act as a member. Persons employed by or significantly associated with a casino operator at any time in the previous 4 years are ineligible to be appointed.

*Clause 132* remuneration of members is to be fixed by the Governor in Council.

*Clause 133* a member may be appointed for up to 3 years but is eligible for reappointment.

*Clause 134* contains provision for the appointment of acting Chairperson and members.

*Clause 135* contains provisions with respect to vacancies, resignation and removal from office of members.

*Clause 136* requires members of the Authority to declare pecuniary interests on any matter before the Authority and to refrain from voting on the matter.

*Clause 137* the Chairperson is to preside at meetings of the Authority.

*Clause 138* contains provisions relating to a quorum of the Authority and regulating the proceedings of the Authority.

*Clause 139* an act or decision of the Authority is not invalid by reason of any defect in appointment of a member or vacancy.

*Clause 140* sets out the objects of the Authority.

*Clause 141* sets out the functions of the Authority.

*Clause 142* provides that the Authority may enter into agreements, subject to the approval of the Minister.

*Clause 143* enables the Authority to hold inquiries in public or private and in doing so has the power to summon witnesses and take evidence on oath.

*Clause 144* enables the Authority to delegate certain functions.

*Clause 145* enables the Authority to employ staff and consultants and to arrange for the use of staff or facilities of a government agency or local authority.

*Clause 146* requires the Authority to keep proper accounts and records.

*Clause 147* requires the Authority to submit an annual report to Parliament.

*Clause 148* provides for the financial statements of the Authority to be audited by the Auditor-General.

*Clause 149* provides that the Liquor Control Act does not apply to the casino except to the extent the regulations otherwise provide.



## **PART 11—GENERAL**

*Clause 150* exempts the Authority from the Freedom of Information Act.

*Clause 151* prohibits the disclosure of information on the affairs of another person obtained by a person in the exercise of functions under this Act except in certain circumstances.

*Clause 152* deals with potential conflicts of interest of members of the Authority, certain staff of the Authority, the Director and inspectors.

*Clause 153* provides that no personal liability attaches to members of the Authority, the Director and certain other persons. The liability that would otherwise attach to that person instead attaches to the Crown.

*Clause 154* enables police to seize unauthorised gaming equipment and the court to order the equipment to be forfeited.

*Clause 155* provides that there is no appeal from a decision of the Authority except on the grounds of failure to observe the rules of natural justice or other prescribed grounds.

*Clause 156* there is no right to compensation for cancellation, suspension or variation of the terms of a licence.

*Clause 157* requires the destruction of fingerprints obtained by the Authority in connection with an application for a licence after the application is refused or the licence is cancelled or surrendered.

*Clause 158* provides that a record required to be produced must be produced in English and decipherable.

*Clause 159* contains offences relating to the provision of false or misleading information.

*Clause 160* concerns service of documents on the Authority.

*Clause 161* concerns service of documents on other persons.

*Clause 162* concerns certain evidentiary provisions.

*Clause 163* provides for offences by corporations under this Act to be taken to be offences by the directors if the person knowingly authorised or permitted the contravention.

*Clause 164* sets out those who may institute proceedings for offences under this Act.

*Clause 165* the court may order the forfeiture of offending articles where a person has been convicted of an offence involving unlawful possession or use under this Act.

*Clause 166* enables the Governor in Council to make regulations in respect of certain matters.

