

NORFOLK



ISLAND

GAMING SUPERVISION ACT 1998

[Consolidated as at 28 January 2014
on the authority of the Administrator
and in accordance with the
Enactments Reprinting Act 1980]

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Gaming Supervision Act 1998

An Act to establish an administrative structure for the supervision and control of gaming licensed under certain Acts, to provide for its functions and powers and for other purposes.

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Gaming Supervision Act 1998*.

Commencement

2. (1) Section 1 and this section commence on the day on which notification of Assent is published in the Gazette.

- (2) The remaining provisions commence on a day, or respective days, fixed by the Administrator by notice in the Gazette.

The Crown

3. (1) This Act binds the Crown.

- (2) Nothing in this Act makes the Crown in any capacity liable to be prosecuted for an offence.

Interpretation

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

“authorised officer” means an authorised officer appointed under section 16 of this Act;

“Authority” means the Norfolk Island Gaming Authority established under section 5 of this Act;

“Director” means the Director of Gaming appointed under section 15 of this Act;

“law enforcement agency” means —

- (a) the Norfolk Island police force; or
- (b) the police force of a State or Territory of the Commonwealth or New Zealand; or
- (c) the Australian Federal Police; or
- (d) any other prescribed authority or person responsible for the enforcement of law;

“prescribed Act” means —

- (a) the *Gaming Act 1998*; and
- (b) the *Bookmakers and Betting Exchange Act 1998*; and
- (c) any other Act prescribed for the purposes of this definition; and

“presiding member”—*see section 6(1)*.

PART 2 — NORFOLK ISLAND GAMING AUTHORITY

Division 1—Establishment of the Authority

Establishment

- 5.** The Norfolk Island Gaming Authority is established by this Act.

Constitution

6. (1) The Authority is constituted by three members appointed by the Administrator on the nomination of the Minister, one of whom will be appointed to preside at meetings of the Authority (“**presiding member**”) and another of whom will be appointed to preside at meetings of the Authority from which the presiding member is absent.

(2) The Administrator may, on the nomination of the Minister, appoint a person to be the deputy of a member of the Authority to act as a member of the Authority in that member’s absence.

(3) A person appointed under subsection 6(2) cannot preside at a meeting of the Authority unless both the persons appointed to preside at meetings under subsection 6(1) are absent from that meeting.

(4) A reference in this Act to a member will be taken to include a deputy of the member when the deputy is acting as the member in accordance with this section.

(5) An act of the Authority will not be taken to be invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Conditions of membership

7. (1) A member is appointed for 3 years (or the lesser period specified in the member’s instrument of appointment) and is eligible for reappointment.

(2) A member’s office becomes vacant if the member —

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by notice in writing to the Minister; or
- (d) is removed from office under subsection 7(3).

- (3) The Administrator may remove a member from office on grounds of —
- (a) mental or physical incapacity to satisfactorily carry out official duties; or
 - (b) neglect of duties; or
 - (c) dishonourable conduct; or
 - (d) any other ground that the Executive Council considers sufficient.

(4) A member of the Authority is entitled to the allowances and expenses determined in respect of that member by the Administrator.

Meetings

8. (1) Two members form a quorum of the Authority.

(2) Matters will be determined by a majority of votes of the members present at a meeting of the Authority and, if there is an equality of votes on a matter, the vote of the member presiding at a meeting will be taken to determine the matter.

(3) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Authority at which the participating members are present if —

- (a) notice of the conference is given to all members of the Authority in the manner determined by the Authority for the purpose; and
- (b) each participating member is capable of communicating with every other participating member during the conference.

(4) A proposed resolution of the Authority becomes a valid decision of the Authority despite the fact that it is not voted on at a meeting of the Authority if —

- (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Authority; and
- (b) a majority of the members express concurrence in the proposed resolution by letter or by facsimile transmission or other electronically transmitted written communication setting out the terms of the resolution.

(5) The Authority must have accurate minutes kept of its meetings.

Conflict of interest

9. (1) A member —

- (a) must disclose any direct or indirect financial or personal interest in a matter under consideration by the Authority; and
- (b) must not take part in any deliberation or decision of the Authority on that matter.

Penalty: 100 penalty units or 12 months imprisonment or both.

(2) It is a defence to a charge of an offence under subsection 9(1) for the defendant to prove that he or she was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this section must be recorded in the minutes of the Authority.

Secretariat

10. (1) The Minister may provide the Authority with —

- (a) a secretary or any other staff; or
- (b) facilities,

required by the Authority.

(2) The secretary or other staff will be appointed under the *Public Sector Management Act 2000* and may perform their duties in conjunction with any other duties as a public servant.

Division 2 — Functions and Powers of the Authority

Functions and powers

11. (1) The functions of the Authority are —

- (a) the functions conferred on, or assigned to, it by or under this or any prescribed Act; and
- (b) to ensure that an efficient and effective system of supervision is established and maintained over the operations authorised by or under any prescribed Act; and
- (c) to advise, and make recommendations to, the Minister in respect of the administration of this Act or any prescribed Act; and
- (d) to liaise with other gaming control agencies, whether in Australia or elsewhere, on matters relating to the administration, operation or control of gaming.

(2) The Authority has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and in particular has the specific powers conferred on, or assigned to, it by or under this or any prescribed Act.

(3) The Authority may —

- (a) require the Director to provide it with a report on any matter relating to the operations authorised by or under any prescribed Act, or the regulation of those operations; or
- (b) direct the Director or an authorised officer in the exercise of the powers or functions conferred on him or her by or under this Act, or any prescribed Act.

Inquiries

12. (1) The Authority may —

- (a) hold an inquiry whenever it considers it necessary or desirable for the purpose of carrying out its functions; and
- (b) must, at the request of the Minister, hold an inquiry into any matter relating to the operation, administration or enforcement of any prescribed Act.

(2) The Authority must provide the Minister with a report of the Authority's findings and recommendations for any action to be taken.

(3) Unless the Authority recommends that the report should remain confidential, the Minister must table a copy of the report in the Legislative Assembly within 2 sitting days after it is received.

Powers and procedures of Authority on inquiry or other proceeding

13. (1) For the purposes of an inquiry, investigation or other proceedings before the Authority (whether under this or any other Act), the Authority may —

- (a) require —
 - (i) the attendance before the Authority of any person; or
 - (ii) the production of any equipment or other item, or any books, papers or documents; or
- (b) require a person to answer a specified question to the best of the person's knowledge and belief, verified by statutory declaration; or
- (c) inspect any equipment or other items, or books, papers or documents produced before it and retain them for that purpose; or
- (d) make copies of books, papers or documents produced before it; or
- (e) require a person to make an oath, or affirm, that the person will truly answer all questions put to the person in the course of an inquiry; or
- (f) require a person to answer any question put to the person by a member of the Authority or any person appearing before the Authority.

(2) A person must not —

- (a) fail to comply with a requirement of the Authority under paragraph 13(1)(a) unless the person has a reasonable excuse (proof of which lies on the person); or
- (b) disrupt the proceedings of, or misbehave before, the Authority; or
- (c) insult the Authority or a member of the Authority; or
- (d) fail to be sworn or affirm, or to answer any relevant question, when required to do so by the Authority.

Penalty (Subsection 13(2)): 100 penalty units or 12 months imprisonment or both.

(3) The Authority may sit at any time and in any place (including a place outside Norfolk Island) and may adjourn its sittings from time to time or from place to place.

(4) In any proceeding, the Authority may —

- (a) receive in evidence any transcript of evidence in proceedings before —
 - (i) any court or tribunal; or
 - (ii) any other person or body approved by the Administrator in writing for the purposes of this section,and may draw any conclusions of fact from the transcript as it thinks proper; or
- (b) in its discretion, adopt any finding decision or judgement of —
 - (i) any court or tribunal; or
 - (ii) any other person or body approved by the Administrator in writing for the purposes of this section.

Engagement of consultants, etc

14. The Authority may, for the purpose of exercising its functions —

- (a) engage consultants; and
- (b) by agreement, arrange for the use of any staff or other resources of a government department, or authority, of the Commonwealth, a State or Territory of the Commonwealth, or New Zealand or a law enforcement agency.

PART 3 — DIRECTOR AND AUTHORISED OFFICERS**Director**

- 15. (1)** The Minister may appoint a person to be —
- (a) the Director of Gaming; or
 - (b) the Deputy Director of Gaming.
- (2)** The Director has the following functions —
- (a) to directly supervise and inspect the licensed operations undertaken under any prescribed Act; and
 - (b) to detect offences committed under any prescribed Act; and
 - (c) to assist the Authority generally, as the Authority sees fit; and
 - (d) any other function conferred on, or assigned to, the Director by or under this Act or any prescribed Act.

(3) The Director has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and in particular has the specific powers conferred on, or assigned to, the Director or an authorised officer by or under this Act or any prescribed Act.

(4) The Deputy Director may perform the functions, and exercise the powers, of the Director —

- (a) during an absence of the Director from duty or from Norfolk Island; or
- (b) during a vacancy in the office of Director; or
- (c) at any other time with the approval, and subject to the direction, of the Director.

(5) The Director, or Deputy Director, is subject only to the direction of the Authority in the performance of the functions, or exercise of the powers, of that office.

(6) The Director may delegate any function of the Director to a person approved by the Authority for that purpose.

Authorised officers

16. (1) The Minister may appoint a person to be an authorised officer in respect of a prescribed Act or prescribed Acts.

(2) The Minister must provide each authorised officer with identification bearing a photograph of the person and identifying the person as an authorised officer.

(3) An authorised officer must, on request, show his or her identification to a person when exercising the powers or functions of an authorised officer in respect of that person.

(4) An authorised officer is subject only to the direction of the Authority in the performance of the functions, or exercise of the powers, of that office.

Functions of authorised officers

17. (1) An authorised officer has the following functions —

- (a) to directly supervise and inspect the licensed operations undertaken under any prescribed Act in respect of which the authorised officer is appointed; and
- (b) to assist in detecting offences committed under this Act or any prescribed Act in respect of which the authorised officer is appointed; and
- (c) to assist the Authority generally, as the Authority sees fit in the administration of this Act and any prescribed Act in respect of which the authorised officer is appointed; and
- (d) any other function conferred on, or assigned to, the authorised officer by or under this Act or any prescribed Act in respect of which the authorised officer is appointed.

(2) If an authorised officer becomes aware of an irregularity, deficiency or statutory default in relation to an operation authorised under this Act or a prescribed Act in respect of which the authorised officer is appointed, the officer must make a written report on the irregularity, deficiency or default to the Authority.

Powers of authorised officers

18. An authorised officer may, for the performance of the authorised officer's functions —

- (a) require a person to state the person's full name and place of residence and to produce evidence of the person's identity; or
- (b) require a person to produce, or answer questions about, any equipment or other item, or any books, papers or documents in the person's possession; or
- (c) inspect any equipment or other item; or
- (d) inspect any books, papers or documents and take copies of, or extracts from, them; or

- (e) enter any premises —
 - (i) with the consent of the occupier; or
 - (ii) accompanying a police officer who has a lawful right to enter the premises,and seize any equipment or other item, or any books, papers or documents, on those premises that the authorised officer considers will afford evidence of the commission of an offence; or
- (f) by written notice, require a person to attend before the authorised officer at a specified time and place and answer questions.

Hindrance, etc, of authorised officers

19. (1) A person must not —

- (a) hinder or obstruct an authorised officer in the exercise of the authorised officer's powers under this Act or any prescribed Act; or
- (b) assault, or use abusive, threatening or insulting language to an authorised officer when the authorised officer is exercising the authorised officer's powers under this Act or any prescribed Act; or
- (c) refuse or fail to comply with a reasonable requirement or direction given by an authorised officer under this Act or any prescribed Act; or
- (d) when required by an authorised officer under this Act or any prescribed Act to answer a question, fail to answer that question to the best of the person's knowledge, information and belief; or
- (e) falsely represent, by words or conduct, that he or she is an authorised officer.

Penalty: 100 penalty units or 12 months imprisonment or both.

(2) A person must, on request by an authorised officer, facilitate the exercise of the authorised officer's powers under any prescribed Act.

Penalty: 50 penalty units.

PART 4 — MISCELLANEOUS**Privilege**

20. A person is not excused from complying with an obligation under this Act, or any prescribed Act, to —

- (a) answer a question; or
- (b) produce any equipment or other item, or any books, papers or documents,

under this section on grounds of the privilege against self incrimination, or legal professional privilege,

but

if a person claims privilege in respect of an answer, it will not be admissible against the person —

- (c) in criminal proceedings (except in proceedings for perjury); or
- (d) in respect of a claim of privilege based on legal professional privilege, in civil proceedings in which the person would be entitled to claim legal professional privilege.

Documents held in computers

21. In this Act, or any prescribed Act —

- (a) a reference to a document includes a disk, tape or other article from which information is capable of being reproduced (with or without the aid of another article or device); and
- (b) an obligation to produce a document constituted by such a disk, tape or other article includes an obligation to reproduce the information contained in that disk, tape or other article in an understandable form, and, on request, to provide a permanent written copy of that document.

Probity obligations

22. (1) A member of the Authority, the Director or an authorised officer must not engage in gaming activity to which the Authority's statutory responsibilities extend.

Penalty: 100 penalty units or 12 months imprisonment or both.

(2) The Director of Gaming, Deputy Director of Gaming or an authorised officer must —

- (a) disclose in writing to the Authority a conflict in respect of that person's duties under this Act, or any prescribed Act, arising out of any direct or indirect financial or personal interest of the person; and
- (b) comply with any written direction given by the Authority in respect of that interest.

Penalty: 100 penalty units or 12 months imprisonment or both.

(3) It is a defence to a charge of an offence against subsection 22(2) for the defendant to prove that he or she was not, at the time of the alleged offence, aware of his or her interest in a matter.

Restriction on actions

23. No action, suit or proceeding may be commenced—

- (a) against the Administration or the Authority in respect of any act done, or omitted to be done; or
- (b) against any person as the agent or employee of the Administration or the Authority in respect of any act done, or omitted to be done, by that person,

in good faith in the performance, or purported performance, of a function under this or any prescribed Act and, in particular but without limitation, for compensation in relation to the cancellation, suspension or variation of the terms or conditions of any licence granted under any prescribed Act.

Secrecy

24. (1) A person who acquires information in the exercise of a function under this Act or any prescribed Act must not make a record of the information or divulge the information to another person, except in the exercise of functions under this Act or a prescribed Act.

Penalty: 100 penalty units or imprisonment for 12 months or both.

(2) Despite subsection 24(1), information may be divulged —

- (a) to a particular person if the Minister certifies that it is necessary in the public interest that the information be divulged to the person; or
- (b) to a prescribed person.

(3) A relevant person is, in respect of information divulged under subsection 24(2), subject to the same rights, privileges and duties under this section as the person would be if the person had acquired the information in the exercise of a function under this Act or a prescribed Act.

(4) A person cannot be required —

- (a) to produce in any court a document or other thing that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under this Act; or
- (b) to divulge to any court information that has come to the person's notice in the exercise of the person's functions under this Act,

unless —

- (c) the Minister certifies that the production or divulgence is necessary in the public interest; or
- (d) that production or divulgence is required under the regulations.

(5) If —

- (a) a law enforcement agency has provided information or a document for the purposes of this or any prescribed Act; and
- (b) the law enforcement agency has requested that the information or document be kept confidential on the ground that its disclosure might —
 - (i) prejudice present or future investigations or legal proceedings; or
 - (ii) create a risk of loss, harm or undue distress to any person,

the Minister must, in determining for the purposes of this section whether to issue a certification in respect of that information or document, consult with the law enforcement agency and take into account any views expressed by the law enforcement agency on the matter.

(6) In this section —

“court” includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

“produce” includes permit access to;

“relevant person” means —

- (a) a person to whom information is divulged under subsection 24(2); or
- (b) a person employed by, or under the control of, a person referred to in paragraph 24(6)(a).

....

Regulations

26. (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

including Regulations —

- (c) providing for the delegation of the functions and powers of the Authority under this Act or any prescribed Act; or
- (d) deeming requirements issued by the Authority, the Director or an authorised officer in a manner specified in the Regulations to have been communicated to the person to whom they were issued; or
- (e) providing that evidence may be given by certificate about the exercise or non-exercise of a power or function under this or a prescribed Act.

(2) The Regulations may prescribe penalties not exceeding 50 penalty units for a contravention of the Regulations.

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NOTES

The *Gaming Supervision Act 1998* as shown in this consolidation comprises Act No. 4 of 1998 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Gaming Supervision Act 1998</i>	4, 1998	23.4.98	27 [NB – transitional section now deleted]
<i>Gaming Supervision Amendment Act 1999</i>	6, 1999	29.4.99	
<i>Gaming Supervision Amendment (No. 2) Act 1999</i>	24, 1999	2.12.99	
[previously consolidated as at 10 March 2000]			
<i>Interpretation (Amendment) Act 2012</i> [to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]	14, 2012	28.12.12	

Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and substituted
inserted

Provisions affected	How affected
6	am 14, 2012
7	am 14, 2012
8	am 6, 1999
10	am 14, 2012
11	am 14, 2012
12	am 14, 2012
15	am 14, 2012
16	am 14, 2012
23	rs 24, 1999
24	am 24, 1999; 14, 2012
25	rep 24, 1999
26	am 6, 1999

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