

2010-2011-2012

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

National Gambling Reform Bill 2012

No. , 2012

(Families, Housing, Community Services and Indigenous Affairs)

A Bill for an Act to provide for national gambling reform in relation to gaming machines, and for related purposes

Contents

Chapter 1—Preliminary	1
Part 1—Preliminary	1
1 Short title.....	1
2 Commencement.....	2
3 Guide to this Act.....	2
4 Object of this Act.....	4
5 Definitions.....	4
6 Meaning of <i>gaming machine</i>	13
7 References to premises.....	14
8 Persons who engage in conduct alone or together with others.....	14
9 Meaning of <i>small gaming machine premises</i>	14
10 Act binds the Crown.....	14
11 Concurrent operation with State and Territory laws.....	15
12 Constitutional limitations.....	15
Part 2—Application of this Act	16
13 Application of precommitment system and dynamic warning requirements.....	16
14 Application of automatic teller machine requirements.....	17
15 Application of manufacturing and importing requirements.....	17
16 Application of supervisory levy.....	17
17 Application of gaming machine regulation levy.....	18
18 Performance of functions etc. after commencement.....	19
Chapter 2—National gambling reforms	20
Part 1—Guide to this Chapter	20
19 Guide to this Chapter.....	20
Part 2—Precommitment systems	22
Division 1—Registration through precommitment system for user who chooses to register	22
20 When a gaming machine is not compliant.....	22
21 Precommitment system to provide for registration and cancellation.....	22
22 Registration process for user who chooses to register.....	23
23 Identification requirements during registration for user who chooses to register.....	24
24 Exclusion from system—setting a loss limit of \$0.....	24

25	Requirements for limit periods for user who chooses to register.....	25
26	Changing, revoking and setting loss limits and limit periods after initial registration	26
27	When changes to loss limits or limit periods may take effect.....	26
Division 2—Precommitment system requirements if a person chooses to use a gaming machine as a registered user		28
28	Registration of registered user to comply with requirements.....	28
29	Identification of registered user	28
30	Monitoring and transmitting expenditure and winnings for registered user.....	29
31	Precommitment information for registered user	30
32	No use of gaming machine by registered user after loss limit reached	31
Division 3—Other requirements for precommitment systems		33
33	Capability requirement for precommitment systems	33
34	Transaction statement for registered user	33
35	Additional requirements for precommitment systems in regulations	34
36	No national database of protected information from precommitment systems	34
Part 3—Dynamic warnings		35
37	When a gaming machine is not compliant	35
38	Dynamic warnings.....	35
Part 4—ATM withdrawal limit for gaming machine premises (other than casinos)		36
39	ATM withdrawal limit for gaming machine premises (other than casinos).....	36
40	Indexation.....	36
41	Anti-avoidance—determination of gaming machine premises.....	37
Part 5—Provisions related to national gambling reforms		38
Division 1—Exemptions from ATM withdrawal limit		38
42	Exemptions from ATM withdrawal limit—regulations.....	38
43	Exemptions from ATM withdrawal limit—application to Regulator	38
44	Process for deciding exemptions	39
45	Effect of exemptions on State or Territory law.....	39

Division 2—Approvals and licences for precommitment systems	40
Subdivision A—Approving precommitment systems	40
46 Applications for approvals.....	40
47 Form of applications.....	40
48 Requiring further information.....	40
49 Amendment and withdrawal of applications	41
50 Testing precommitment systems	41
51 Approving precommitment systems and variations to approved terms and conditions	42
52 Notification of approvals	43
53 Changes to precommitment requirements	43
54 Revocation of approvals	44
55 Civil penalty for failing to provide precommitment system in accordance with approved terms and conditions	44
Subdivision B—Licences for providing etc. precommitment systems	44
56 Regulations may provide in relation to licensing persons who provide etc. precommitment systems.....	44
 Chapter 3—Civil penalty provisions for non-compliance with national gambling reforms	 46
Part 1—Guide to this Chapter	46
57 Guide to this Chapter.....	46
Part 2—Gaming machines that do not comply with precommitment and dynamic warning requirements	47
58 Making non-compliant gaming machine available for use	47
Part 3—Automatic teller machines that do not comply with withdrawal limit requirements	50
Division 1—Constitutional provisions	50
59 Application of this Part.....	50
60 Additional operation of this Part.....	50
61 Part not to apply to State banking.....	50
Division 2—Civil penalty provisions	51
62 Occupying premises containing non-compliant automatic teller machine	51
63 Providing non-compliant automatic teller machine	51

64	Civil penalty provision contravened without a person withdrawing more than cash limit	52
65	Exception for premises covered by exemption and casinos.....	52
Chapter 4—Privacy		53
Part 1—Guide to this Chapter		53
66	Guide to this Chapter	53
Part 2—Privacy		54
Division 1—Offences for unauthorised disclosure or use of protected information		54
67	Offences for unauthorised disclosure or use of protected information	54
Division 2—Authorised disclosure or use by Regulator, other entrusted persons and others		57
Subdivision A—Authorised disclosure or use by Regulator, other entrusted persons and others		57
68	Authorised disclosure or use—official duties.....	57
69	Who may disclose or use information in accordance with sections 70 to 73	57
70	Authorised disclosure—law enforcement.....	58
71	Authorised disclosure or use—consent.....	59
72	Authorised disclosure—threat to life or health.....	59
73	Authorised disclosure—publicly available information	59
Subdivision B—Authorised disclosure by Regulator		59
74	Authorised disclosure—Minister.....	59
75	Authorised disclosure—Commonwealth, State and Territory agencies	59
76	Authorised disclosure—research	60
77	Authorised disclosure—summaries and statistics	60
Chapter 5—Requirements for manufacturing and importing gaming machines		61
Part 1—Guide to this Chapter		61
78	Guide to this Chapter	61
Part 2—Requirements for manufacturing and importing gaming machines		62
79	Manufacturing gaming machines.....	62
80	Importing gaming machines	62

Chapter 6—Liability for, and collection and recovery of, supervisory and gaming machine regulation levies	63
Part 1—Guide to this Chapter	63
81 Guide to this Chapter	63
Part 2—Liability for supervisory levy	64
82 Purpose of supervisory levy	64
83 Liability for supervisory levy	64
84 Who is liable to pay the supervisory levy	64
Part 3—Liability for gaming machine regulation levy	66
85 Liability for gaming machine regulation levy	66
86 Who is liable to pay the gaming machine regulation levy	68
Part 4—Collection and recovery of supervisory and gaming machine regulation levies	70
Division 1—Assessment of levies	70
87 Regulator may make assessment of levies	70
88 Request for assessment	70
89 Levy liabilities do not depend on assessment	70
90 Regulator must give notice of the assessment	70
91 Amendment of assessment	71
92 Later assessment prevails in case of inconsistency	71
93 Production of assessment is conclusive evidence	71
Division 2—Collection of levies	72
94 Right of contribution if persons are jointly liable	72
95 Returns	72
96 When levy due for payment	73
97 Late payment penalty	73
98 Payment of levy and late payment penalty	73
99 Recovery of levy and late payment penalty	74
100 Refunds of overpayments of levy	74
Division 3—Miscellaneous	75
101 Offence for failure to lodge a return	75
102 Regulations may provide in relation to assessment, collection and recovery	75

Chapter 7—Monitoring and investigation	76
Part 1—Guide to this Chapter	76
103 Guide to this Chapter	76
Part 2—Regulator	78
104 The Regulator	78
105 Functions of the Regulator	78
106 Powers of the Regulator	78
107 Regulator may charge for services.....	79
108 Arrangements with other agencies.....	79
109 Consultants	79
110 Minister may give directions to the Regulator.....	79
111 Annual report.....	79
Part 3—Authorised persons	81
112 Appointment of authorised persons	81
113 The Regulator is an authorised person.....	82
114 Identity cards	82
115 Offence for not returning identity card	82
Part 4—Inspecting public areas of gaming machine premises	84
116 Inspection powers in public areas of gaming machine premises.....	84
Part 5—Monitoring	86
Division 1—Monitoring powers	86
117 Authorised person may enter premises by consent or under a warrant.....	86
118 Monitoring powers of authorised persons.....	86
119 Operating electronic equipment.....	87
120 Accessing data held on certain premises—notification to occupier	88
121 Expert assistance to operate electronic equipment.....	89
122 Securing evidence of the contravention of a related provision	90
Division 2—Persons assisting authorised persons	92
123 Persons assisting authorised persons	92
Division 3—Monitoring warrants	93
124 Monitoring warrants	93

Part 6—Investigation	95
Division 1—Investigation powers	95
125	Authorised person may enter premises by consent or under a warrant..... 95
126	Investigation powers of authorised persons 95
127	Operating electronic equipment..... 96
128	Accessing data held on certain premises—notification to occupier 97
129	Expert assistance to operate electronic equipment..... 98
130	Seizing evidence of contraventions of related provisions 99
Division 2—Persons assisting authorised persons	101
131	Persons assisting authorised persons 101
Division 3—General provisions relating to seizure	102
132	Copies of seized things to be provided 102
133	Receipts for seized things 102
134	Return of seized things 102
135	Issuing officer may permit a seized thing to be retained..... 103
136	Disposal of seized things 104
137	Compensation for acquisition of property 104
Division 4—Investigation warrants	106
138	Investigation warrants 106
139	Investigation warrants by telephone, fax etc..... 107
140	Authority of warrant 108
141	Offence relating to warrants by telephone, fax etc. 109
142	Completing execution of an investigation warrant after temporary cessation 110
143	Completing execution of an investigation warrant stopped by court order 111
Part 7—General provisions relating to monitoring and investigation	112
Division 1—Obligations of authorised persons in entering premises	112
144	Consent..... 112
145	Announcement before entry under warrant 112
146	Authorised person to be in possession of warrant..... 113
147	Details of warrant etc. to be given to occupier 113

Division 2—Other powers of authorised persons	115
Subdivision A—Asking questions and seeking production of documents	115
148 Authorised person may ask questions and seek production of documents.....	115
Subdivision B—Opening gaming machines	116
149 Authorised person may open gaming machines	116
150 Authorised person to notify about broken seals and reseal gaming machines.....	117
151 Relationship with State or Territory laws	118
Division 3—Occupier’s rights and responsibilities on entry	120
152 Occupier entitled to observe execution of warrant	120
153 Occupier to provide authorised person with facilities and assistance.....	120
Division 4—Miscellaneous	121
154 Powers of issuing officers.....	121
155 Compensation for damage to electronic equipment.....	121
156 Compensation for damage to gaming machine.....	122
Part 8—Requiring persons to give information, produce documents and keep records	124
157 Power to require persons to give information, produce documents or answer questions	124
158 Translation of documents	125
159 Record keeping requirements	126
Chapter 8—Enforcement	128
Part 1—Guide to this Chapter	128
160 Guide to this Chapter.....	128
Part 2—Civil penalty provisions	129
Division 1—Obtaining a civil penalty order	129
161 Civil penalty orders	129
162 Civil enforcement of penalty	130
163 Conduct contravening more than one civil penalty provision.....	130
164 Multiple contraventions.....	130
165 Proceedings may be heard together	130
166 Civil evidence and procedure rules for civil penalty orders.....	131
167 Contravening a civil penalty provision is not an offence.....	131

Division 2—Civil proceedings and other enforcement action	132
168 Civil proceedings after other enforcement action	132
169 Other enforcement action during civil proceedings	132
170 Other enforcement action after civil proceedings	133
171 Evidence given in civil proceedings not admissible in criminal proceedings	133
Division 3—Miscellaneous	134
172 Ancillary contravention of civil penalty provisions	134
173 Mistake of fact	134
174 State of mind	135
175 Civil penalty provisions contravened by employees, agents or officers	135
Part 3—Infringement notices	136
176 When an infringement notice may be given	136
177 Matters to be included in an infringement notice	136
178 Extension of time to pay amount	137
179 Withdrawal of an infringement notice	138
180 Effect of payment of amount	139
181 Effect of this Part	140
Part 4—Injunctions	141
182 Grant of injunctions	141
183 Interim injunctions	141
184 Discharging or varying injunctions	142
185 Certain limits on granting injunctions not to apply	142
186 Other powers of a relevant court unaffected	142
Part 5—Enforceable undertakings	143
187 Acceptance of undertakings	143
188 Enforcement of undertakings	144
Part 6—Compliance notices	145
189 Compliance notices	145
190 Review of compliance notices	147
Part 7—Miscellaneous	148
191 Regulator may publicise certain offences and contraventions	148
Chapter 9—Research, reviews and other provisions	149
Part 1—Guide to this Chapter	149
192 Guide to this Chapter	149

Part 2—Research, reviews and other provisions	150
Division 1—Research and reviews	150
193 Productivity Commission review of results of trial if trial conducted	150
194 Productivity Commission review of assessment of progress	151
195 Requirements for referrals to Productivity Commission and reports.....	152
196 Research into gambling	153
197 Expert Advisory Group on Gambling.....	153
Division 2—Other provisions	155
198 Internal review of reviewable decisions	155
199 AAT review of decisions	156
200 Delegation	157
201 Regulations.....	157

1 **A Bill for an Act to provide for national gambling**
2 **reform in relation to gaming machines, and for**
3 **related purposes**

4 The Parliament of Australia enacts:

5 **Chapter 1—Preliminary**

6 **Part 1—Preliminary**
7

8 **1 Short title**

9 This Act may be cited as the *National Gambling Reform Act 2012*.

Section 2

1 **2 Commencement**

2 This Act commences on the day this Act receives the Royal
3 Assent.

4 Note: For the application of this Act, see Part 2 of this Chapter.

5 **3 Guide to this Act**

6 This Act provides for national gambling reforms in relation to
7 gaming machines and gaming machine premises.

8 The first reform requires gaming machines to have a
9 precommitment system that complies with the requirements of this
10 Act. A precommitment system allows a user of a gaming machine,
11 who chooses to do so, to register and set a limit (called a loss limit)
12 for a State or Territory on the amount that he or she is prepared to
13 lose during a period (called a limit period) using, as a registered
14 user, any gaming machine that is located in that State or Territory.

15 While gaming machines are required to have precommitment
16 systems, users of gaming machines may choose whether to register
17 and set a loss limit through those precommitment systems.

18 If a person sets a loss limit and uses a gaming machine as a
19 registered user, then, once the person reaches his or her loss limit
20 during a limit period, the person is prevented from using gaming
21 machines located in the State or Territory as a registered user for
22 the rest of the person's limit period.

23 The second reform requires warnings to be provided by gaming
24 machines relating to the use of gaming machines.

25 The third reform limits the amount of cash that can be withdrawn
26 from an automatic teller machine that is on gaming machine
27 premises (other than a casino).

28 This Act provides civil penalty provisions in relation to gaming
29 machines, and automatic teller machines that are on gaming

Section 3

1 machine premises (other than casinos), that do not comply with the
2 requirements of this Act.

3 This Act ensures the privacy of users of gaming machines by
4 including offences to protect, from unauthorised disclosure or use,
5 any information that is obtained from precommitment systems, or
6 otherwise obtained under this Act.

7 This Act also requires gaming machines that are manufactured or
8 imported to be capable of providing for precommitment.

9 A supervisory levy is imposed on those who hold a licence to
10 operate a gaming machine. The amount of the supervisory levy
11 imposed by the *National Gambling Reform (Related Matters) Act*
12 *(No. 1) 2012* is worked out in accordance with a method prescribed
13 by regulations made under that Act.

14 A gaming machine regulation levy is payable if a person makes a
15 gaming machine available for use at any time during a levy period.
16 However, the gaming machine regulation levy is not payable in
17 certain cases, such as cases related to constitutional corporations or
18 if gaming machines comply with the requirements of Parts 2 and 3
19 of Chapter 2 (precommitment systems and dynamic warnings).

20 This Act deals with the liability for, and collection and recovery of,
21 the supervisory and gaming machine regulation levies.

22 This Act is enforced by the Regulator. The Regulator and
23 authorised persons have a number of powers to investigate and
24 monitor compliance with this Act. The Regulator also has a
25 number of options for enforcing this Act, including applying for
26 civil penalty orders, giving infringement and compliance notices,
27 and seeking injunctions and enforceable undertakings. The powers
28 under this Act may be delegated to employees of the public service
29 of a State or Territory, or a body established for a public purpose
30 by or under a law of a State or Territory.

Section 4

1 **4 Object of this Act**

- 2 (1) The object of this Act is to reduce the harm caused by gaming
3 machines:
- 4 (a) to problem gamblers, and those at risk of experiencing that
5 harm; and
- 6 (b) to the families and communities of problem gamblers and of
7 those at risk of experiencing that harm.
- 8 (2) This object is to be achieved by allowing users of gaming
9 machines to limit that harm by:
- 10 (a) providing for precommitment for gaming machines by:
- 11 (i) allowing users of gaming machines, who choose to do
12 so, to set limits for a State or Territory on the amount
13 that they are prepared to lose during a period using, as
14 registered users, gaming machines that are located in
15 that State or Territory; and
- 16 (ii) preventing users from continuing to use, as registered
17 users, gaming machines that are located in that State or
18 Territory once those limits have been reached; and
- 19 (iii) allowing users to retain control over whether to impose
20 limits on the amount that they are prepared to lose
21 during a period using gaming machines that are located
22 in a State or Territory; and
- 23 (b) ensuring that warnings are provided electronically on the
24 potential for harm from, and the cost of, using gaming
25 machines; and
- 26 (c) limiting the amount of cash users of gaming machines can
27 access from automatic teller machines on premises
28 containing gaming machines (other than casinos); and
- 29 (d) ensuring that the privacy of users of gaming machines is
30 protected; and
- 31 (e) ensuring that gaming machines that are manufactured or
32 imported are capable of providing for precommitment.

33 **5 Definitions**

34 In this Act:

Section 5

- 1 ***acquisition of property*** has the meaning given by section 137.
- 2 ***amount*** includes a nil amount.
- 3 ***applicant***, in relation to an application for approval of:
- 4 (a) a precommitment system for a State or Territory; or
- 5 (b) a variation to the approved terms and conditions for a
- 6 precommitment system for a State or Territory;
- 7 has the meaning given by section 46.
- 8 ***approval*** means an approval of a precommitment system for a
- 9 State or Territory that is given in accordance with subsection 51(1).
- 10 ***approved form*** means a form approved in writing by the Regulator.
- 11 ***approved precommitment system*** for a State or Territory means a
- 12 precommitment system for a State or Territory in relation to which
- 13 an approval is in force.
- 14 ***approved terms and conditions***, for a precommitment system for a
- 15 State or Territory, means:
- 16 (a) the terms and conditions taken to be approved under
- 17 subsection 51(3) in relation to the precommitment system; or
- 18 (b) if those terms and conditions have been varied—those terms
- 19 and conditions as varied by one or more variations approved
- 20 under subsection 51(4).
- 21 ***Australia*** means the States, the Australian Capital Territory and the
- 22 Northern Territory.
- 23 ***Australian Institute of Family Studies*** means the Australian
- 24 Institute of Family Studies established by Part XIVA of the *Family*
- 25 *Law Act 1975*.
- 26 ***authorised disclosure*** has the meaning given by subsection 67(6).
- 27 ***authorised disclosure information*** has the meaning given by
- 28 subsection 67(7).
- 29 ***authorised disclosure or use*** has the meaning given by subsection
- 30 67(6).
- 31 ***authorised person*** means:
-

Section 5

- 1 (a) a person appointed under section 112; or
2 (b) the Regulator in his or her capacity as an authorised person
3 under section 113.
- 4 **certified**, in relation to the translation of a document, has the
5 meaning given by section 158.
- 6 **civil penalty order** has the meaning given by section 161.
- 7 **civil penalty provision** means a provision of this Act if:
8 (a) either:
9 (i) the provision sets out at its foot a pecuniary penalty, or
10 penalties, indicated by the words “Civil penalty”; or
11 (ii) another provision of this Act provides that the provision
12 is a civil penalty provision; and
13 (b) the provision is one of the following kinds:
14 (i) a subsection, or a section that is not divided into
15 subsections;
16 (ii) a subregulation, or a regulation that is not divided into
17 subregulations.
- 18 **constitutional corporation** means a corporation to which
19 paragraph 51(xx) of the Constitution applies.
- 20 **damage**, in relation to data, includes damage by erasure of data or
21 addition of other data.
- 22 **decides**: a person **decides** not to have a loss limit for a State or
23 Territory if:
24 (a) the person indicates, as part of the registration process, that
25 the person does not choose to set a loss limit for the State or
26 Territory; or
27 (b) the person revokes the person’s loss limit for the State or
28 Territory.
- 29 **Director of the Australian Institute of Family Studies** means the
30 Director within the meaning of section 114A of the *Family Law*
31 *Act 1975*.
- 32 **engage in conduct** includes omit to perform an act.

Section 5

1 ***entrusted person*** has the meaning given by subsection 67(4).

2 ***evidential burden***, in relation to a matter, means the burden of
3 adducing or pointing to evidence that suggests a reasonable
4 possibility that the matter exists or does not exist.

5 ***evidential material***: any of the following is ***evidential material***:

- 6 (a) a thing with respect to which an offence against, or a civil
7 penalty provision under, this Act has been contravened or is
8 suspected, on reasonable grounds, to have been contravened;
- 9 (b) a thing that there are reasonable grounds for suspecting will
10 afford evidence as to the contravention of such an offence or
11 civil penalty provision;
- 12 (c) a thing that there are reasonable grounds for suspecting is
13 intended to be used for the purpose of contravening such an
14 offence or civil penalty provision.

15 ***gaming equipment*** has the meaning given by subsection 6(3).

16 ***gaming machine*** has the meaning given by subsections 6(1) and
17 (2).

18 Note: ***Gaming machine*** has a more limited meaning in the definition of
19 ***gaming machine premises***, paragraph 6(2)(c) and subsection 6(3).

20 ***gaming machine premises***:

- 21 (a) means premises on which one or more gaming machines
22 (within the meaning of subsection 6(1) and paragraph
23 6(2)(b)) are made available for use; and
- 24 (b) for the purposes of Part 4 of Chapter 2 (ATM withdrawal
25 limit), and any other provision of this Act to the extent that it
26 relates to that Part—includes a place determined by the
27 Regulator under section 41 to be, or to be part of, gaming
28 machine premises.

29 ***gaming machine regulation levy*** means levy imposed by section 5
30 of the *National Gambling Reform (Related Matters) Act (No. 2)*
31 *2012*.

32 ***gaming machine revenue*** from a gaming machine for a levy
33 period means:

Section 5

- 1 (a) the total amount of bets made in relation to the gaming
2 machine during the levy period; minus
3 (b) the total amount of outgoings in relation to the gaming
4 machine for the levy period.

5 The ***gaming machine revenue*** may be a negative amount.

6 ***investigation powers*** has the meaning given by sections 126, 127
7 and 130.

8 ***investigation warrant*** means:

- 9 (a) a warrant issued by an issuing officer under section 138; or
10 (b) a warrant signed by an issuing officer under section 139.

11 ***issuing officer*** means:

- 12 (a) a magistrate; or
13 (b) a Federal Magistrate; or
14 (c) a Judge of the Federal Court of Australia.

15 Note: For conferral of powers on an issuing officer, see section 154.

16 ***just terms*** has the meaning given by section 137.

17 ***late payment penalty*** means penalty payable under section 97.

18 ***levy*** means:

- 19 (a) supervisory levy; or
20 (b) gaming machine regulation levy.

21 ***levy period*** means:

- 22 (a) in relation to the supervisory levy—a period of 3 months
23 beginning on 1 January, 1 April, 1 July or 1 October of a
24 year; and
25 (b) in relation to the gaming machine regulation levy—a
26 calendar month.

27 ***licensed provider of a precommitment system*** means a person who
28 is licensed under regulations made for the purposes of subsection
29 56(1).

30 ***licensee*** has the meaning given by section 84.

Section 5

1 **limit period:** a person's **limit period** for a State or Territory means
2 the period provided to the person under subsection 22(2) by a
3 precommitment system for the State or Territory (as changed by
4 the person from time to time, if the system allows for changes).

5 **limit period expenditure,** for a person's limit period for a State or
6 Territory, means the total of the amounts of money or credit spent
7 during the person's limit period using, as a registered user, gaming
8 machines that are located in the State or Territory, as monitored
9 under paragraph 30(2)(a).

10 **limit period winnings,** for a person's limit period for a State or
11 Territory, means the total of the amounts of money or credit won
12 during the person's limit period from using, as a registered user,
13 gaming machines that are located in the State or Territory, as
14 monitored under paragraph 30(2)(b).

15 **loss limit:** a person's **loss limit** for a State or Territory means the
16 limit that is set by the person through a precommitment system for
17 the State or Territory on the amount of the person's net losses
18 during the person's limit period for the State or Territory.

19 **monitoring powers** has the meaning given by sections 118, 119
20 and 122.

21 **monitoring warrant** means a warrant issued under section 124.

22 **net losses,** at a particular time during a person's limit period for a
23 State or Territory, means:

- 24 (a) the person's limit period expenditure, at that time, for the
25 limit period; minus
26 (b) the person's limit period winnings, at that time, for the limit
27 period.

28 The **net losses** may be a negative amount.

29 **not compliant,** in relation to a gaming machine, has the meaning
30 given by sections 20 and 37.

31 **outgoings,** in relation to a gaming machine for a levy period,
32 means each of the following amounts:

- 33 (a) an amount of money (including cheques or other negotiable
34 instruments) or credit provided as winnings during the levy

Section 5

- 1 period in relation to the use of the gaming machine (other
2 than any such amount that was deducted from that or any
3 other gaming machine as referred to in paragraph (b) of this
4 definition during that or any other levy period in order to
5 contribute to a prize);
6 (b) if the gaming machine is lawfully linked to one or more other
7 gaming machines for the purposes of contributing money or
8 credit from the gaming machine to a prize—an amount of
9 money or credit that is deducted from the gaming machine
10 during the levy period in order to contribute to the prize;
11 (c) any other amount worked out in accordance with the
12 regulations.

13 ***person assisting*** an authorised person:

- 14 (a) in Part 5 of Chapter 7 (monitoring powers), and any other
15 provision of this Act to the extent that it relates to that Part—
16 has the meaning given by section 123; and
17 (b) in Part 6 of Chapter 7 (investigation powers), and any other
18 provision of this Act to the extent that it relates to that Part—
19 has the meaning given by section 131.

20 ***precommitment system***:

- 21 (a) for a State or Territory—means a system (or systems) that:
22 (i) allows a user of a gaming machine to set a limit for the
23 State or Territory on the amount that he or she is
24 prepared to lose during a period from using, as a
25 registered user, gaming machines that are located in that
26 State or Territory; and
27 (ii) prevents a user from continuing to use, as a registered
28 user, gaming machines that are located in that State or
29 Territory once that limit has been reached; and
30 (b) for a gaming machine—means the precommitment system
31 (within the meaning of paragraph (a) of this definition) for
32 the State or Territory in which the gaming machine is located
33 that operates in relation to the gaming machine.

34 ***premises*** includes the following:

- 35 (a) a structure, building, vehicle, vessel or aircraft;
36 (b) a place (whether or not enclosed or built on);

Section 5

1 (c) a part of a thing referred to in paragraph (a) or (b).

2 Note: A reference to premises is affected by section 7.

3 ***Productivity Minister*** means the Minister administering the
4 *Productivity Commission Act 1998*.

5 ***protected information*** has the meaning given by subsection 67(5).

6 ***registered***: a person is ***registered*** for a State or Territory if the
7 person chooses to be, and is, registered through an approved
8 precommitment system for the State or Territory in accordance
9 with sections 22 to 25.

10 ***registered user***: a person uses a gaming machine that is located in a
11 State or Territory as a ***registered user*** if:

- 12 (a) the person chooses to be, and is, registered for the State or
13 Territory; and
14 (b) the person identifies himself or herself to the precommitment
15 system for the gaming machine as registered for the State or
16 Territory.

17 ***regulated device*** has the meaning given by section 116.

18 ***Regulator*** has the meaning given by section 104.

19 ***related provision***: each of the following is a ***related provision***:

- 20 (a) an offence against this Act;
21 (b) a civil penalty provision under this Act;
22 (c) an offence against the *Crimes Act 1914* or the *Criminal Code*
23 that relates to this Act.

24 ***relevant court*** means:

- 25 (a) the Federal Court of Australia; or
26 (b) the Federal Magistrates Court; or
27 (c) a court of a State or Territory that has jurisdiction in relation
28 to matters arising under this Act.

29 ***reviewable decision*** means any of the following decisions:

- 30 (a) a decision under section 41 to make a determination;
31 (b) a decision under subsection 43(3) to refuse to grant an
32 exemption;

Section 5

- 1 (c) a decision under subsection 43(4) to specify conditions in
2 relation to an exemption;
- 3 (d) a decision under subsection 43(5) to vary a condition
4 specified in relation to an exemption;
- 5 (e) a decision under subsection 51(1) to refuse to approve a
6 precommitment system for a State or Territory;
- 7 (f) a decision under subsection 51(4) to refuse to approve a
8 variation to the approved terms and conditions for a
9 precommitment system for a State or Territory;
- 10 (g) a decision under subsection 54(1) to revoke an approval of a
11 precommitment system for a State or Territory;
- 12 (h) a decision under section 87 to make an assessment;
- 13 (i) a decision under section 91 to amend an assessment;
- 14 (j) a decision under subsection 97(3) not to specify a later day
15 on which late payment penalty is due for payment;
- 16 (k) any other decision prescribed by the regulations.
- 17 ***session of use***, in relation to a person's use, as a registered user, of
18 a gaming machine that is located in a State or Territory, means the
19 period:
- 20 (a) beginning when the person first identifies himself or herself
21 to the precommitment system for the gaming machine as
22 registered for the State or Territory; and
- 23 (b) ending when the person stops identifying himself or herself
24 to that precommitment system as registered for the State or
25 Territory.
- 26 ***small gaming machine premises*** has the meaning given by
27 section 9.
- 28 ***State or Territory licence*** means a licence or approval (however
29 described) under a State or Territory law that regulates gambling.
- 30 ***supervisory levy*** means levy imposed by section 5 of the *National
31 Gambling Reform (Related Matters) Act (No. 1) 2012*.
- 32 ***this Act*** includes regulations and any other legislative instrument
33 made under a provision of this Act.
- 34 ***transaction statement*** has the meaning given by section 34.
-

1 *withdraws more than the cash limit* has the meaning given by
2 subsection 39(2).

3 **6 Meaning of gaming machine**

- 4 (1) A ***gaming machine*** is a device (whether wholly or partly
5 mechanically or electronically operated) that is designed so that:
6 (a) it may be used for the purposes of playing a game of chance,
7 or a mixed game of chance and skill; and
8 (b) it may be operated wholly or partly by:
9 (i) inserting a token, coin or banknote into the device; or
10 (ii) electronically transferring credits or tokens to the
11 device; or
12 (iii) using credits or tokens in the device (whether those
13 credits or tokens are held, stored or accredited by the
14 device or elsewhere); and
15 (c) because of making a bet on the device, winnings or other
16 rewards may become payable.
- 17 (2) A ***gaming machine*** also includes:
18 (a) gaming equipment (see subsection (3)); and
19 (b) any device that:
20 (i) is designed so that it may be used for the purposes of
21 playing a game of chance, or a mixed game of chance
22 and skill; and
23 (ii) is designed so that, because of making a bet on the
24 device, winnings or other rewards may become payable;
25 and
26 (iii) is prescribed by the regulations for the purposes of this
27 paragraph; and
28 (c) part of a gaming machine (within the meaning of
29 subsection (1) and paragraphs (2)(a) and (b)).
- 30 (3) ***Gaming equipment*** is any system, device, equipment, software or
31 hardware that is used for or in connection with a gaming machine
32 (within the meaning of subsection (1) and paragraph (2)(b)).
- 33 (4) The regulations may prescribe a thing that is taken not to be a
34 gaming machine for the purposes of this Act.

Section 7

1 **7 References to premises**

- 2 (1) A reference in this Act to premises on which one or more gaming
3 machines are made available for use is, if a State or Territory
4 licence applies (or is taken to apply) to such premises, a reference
5 to the premises to which the licence applies (or is taken to apply).
- 6 (2) Subsection (1) does not apply in relation to Part 4 of Chapter 2
7 (ATM withdrawal limit), or any other provision of this Act to the
8 extent that it relates to that Part.

9 **8 Persons who engage in conduct alone or together with others**

10 A reference in this Act to a person who engages in conduct
11 (however that conduct is described, for example, by making a
12 gaming machine available for use, manufacturing a gaming
13 machine or importing a gaming machine) is a reference to a person
14 who engages in conduct, whether alone or together with any other
15 person or persons.

16 **9 Meaning of *small gaming machine premises***

- 17 (1) Premises are *small gaming machine premises* if no more than 20
18 gaming machines are made available for use on the premises.
- 19 (2) Despite subsection (1), gaming machine premises are not *small*
20 *gaming machine premises* at any time after Parts 2 and 3 of
21 Chapter 2 begin to apply, other than because of subsection 13(3),
22 in relation to any gaming machine that is made available for use on
23 those premises.
- 24 Note: For when Parts 2 and 3 of Chapter 2 begin to apply, see section 13.

25 **10 Act binds the Crown**

- 26 (1) This Act binds the Crown in each of its capacities.
- 27 (2) This Act does not make the Crown liable to be:
28 (a) prosecuted for an offence; or
29 (b) subject to civil proceedings for a civil penalty order; or
30 (c) given an infringement notice.

1 **11 Concurrent operation with State and Territory laws**

2 (1) This Act is not intended to exclude or limit the operation of a law
3 of a State or Territory that is capable of operating concurrently
4 with this Act.

5 (2) In particular, this Act is intended to set minimum requirements in
6 relation to:

- 7 (a) precommitment systems for gaming machines; and
8 (b) warnings to be provided by gaming machines; and
9 (c) automatic teller machines that are on gaming machine
10 premises (other than casinos).

11 This Act is not intended to limit the ability of a State or Territory to
12 impose stricter requirements in relation to such machines.

13 (3) In addition, this Act is not intended to affect the number or
14 distribution of gaming machines in a State or Territory.

15 Note: The numbers and distribution of gaming machines in a State or
16 Territory are regulated by the laws of the State or Territory.

17 **12 Constitutional limitations**

18 *Commonwealth not to discriminate or give preference*

19 (1) A power conferred by this Act must not be exercised in such a way
20 as to:

- 21 (a) discriminate between States or parts of States within the
22 meaning of paragraph 51(ii) of the Constitution; or
23 (b) give preference to one State or any part of a State within the
24 meaning of section 99 of the Constitution.

25 *Trade to be absolutely free*

26 (2) A power conferred by this Act must not be exercised in such a way
27 that the exercise would infringe section 92 of the Constitution.

28 Note: Section 92 of the Constitution requires trade among the States to be
29 absolutely free.
30

Section 13

1 **Part 2—Application of this Act**
2

3 **13 Application of precommitment system and dynamic warning**
4 **requirements**

- 5 (1) Parts 2 and 3 of Chapter 2 (precommitment systems and dynamic
6 warnings), and any other provision of this Act to the extent that it
7 relates to those Parts, apply on and after 31 December 2016 in
8 relation to any gaming machine that is made available for use,
9 other than a gaming machine that is made available for use on
10 small gaming machine premises.

11 *Premises with 11 to 20 gaming machines*

- 12 (2) Parts 2 and 3 of Chapter 2, and any other provision of this Act to
13 the extent that it relates to those Parts, apply on and after
14 31 December 2020 in relation to any gaming machine that is made
15 available for use on small gaming machine premises if there are:
16 (a) more than 10 gaming machines; but
17 (b) no more than 20 gaming machines;
18 made available for use on those premises.

19 *Premises with no more than 10 gaming machines*

- 20 (3) Subject to subsection (4), if there are no more than 10 gaming
21 machines that are made available for use on small gaming machine
22 premises, then Parts 2 and 3 of Chapter 2, and any other provision
23 of this Act to the extent that it relates to those Parts, apply on and
24 after 31 December 2020 in relation to any gaming machine that:
25 (a) is not made available for use on the premises at any time
26 before 31 December 2020, but is made available for use on
27 the premises at any time on or after that day; or
28 (b) is on the premises, and was manufactured or imported on or
29 after 31 December 2013.

1 *Premises that gain or lose machines*

- 2 (4) Once subsection (2) begins to apply to a gaming machine, that
3 subsection continues to apply to the gaming machine despite
4 subsection (3).

5 Example: If there are 11 gaming machines on gaming machine premises, and the
6 premises lose 2 machines, so that there are only 9 gaming machines,
7 the rule in subsection (2) continues to apply to the premises even
8 though there are now fewer than 11 gaming machines.

- 9 (5) Subsection (4) does not prevent subsection (1) from applying in
10 relation to a gaming machine that is made available for use on
11 gaming machine premises if the premises cease to be small gaming
12 machine premises.

13 **14 Application of automatic teller machine requirements**

14 Part 4 of Chapter 2 (ATM withdrawal limit), and any other
15 provision of this Act to the extent that it relates to that Part, applies
16 on and after 1 May 2013 in relation to any automatic teller machine
17 that is on any gaming machine premises.

18 Note: Part 4 of Chapter 2 does not apply in relation to casinos (see
19 subsection 39(3)).

20 **15 Application of manufacturing and importing requirements**

21 Chapter 5 (requirements for manufacturing and importing gaming
22 machines), and any other provision of this Act to the extent that it
23 relates to that Chapter, applies in relation to:

- 24 (a) any gaming machine that is manufactured on or after
25 31 December 2013 (whether the manufacture of the gaming
26 machine begins before or after that date); and
27 (b) any gaming machine that is imported on or after
28 31 December 2013.

29 **16 Application of supervisory levy**

30 The following provisions apply on and after the day this Act
31 commences:

- 32 (a) Part 2 of Chapter 6 (supervisory levy), and any other
33 provision of this Act to the extent that it relates to that Part;
-

Section 17

1 (b) the *National Gambling Reform (Related Matters) Act (No. 1)*
2 2012.

3 Note: The amount of the supervisory levy is worked out in accordance with
4 a method prescribed by regulations made under the *National*
5 *Gambling Reform (Related Matters) Act (No. 1) 2012* (see section 6 of
6 that Act).

7 **17 Application of gaming machine regulation levy**

8 (1) This section sets out the application for the following provisions:

9 (a) Part 3 of Chapter 6 (gaming machine regulation levy), and
10 any other provision of this Act to the extent that it relates to
11 that Part;

12 (b) the *National Gambling Reform (Related Matters) Act (No. 2)*
13 2012.

14 (2) The provisions referred to in subsection (1) apply on and after
15 1 January 2017 in relation to any gaming machine that is made
16 available for use, other than a gaming machine that is made
17 available for use on small gaming machine premises.

18 *Premises with 11 to 20 gaming machines*

19 (3) The provisions referred to in subsection (1) apply on and after
20 1 January 2021 in relation to any gaming machine that is made
21 available for use on small gaming machine premises if there are:

22 (a) more than 10 gaming machines; but

23 (b) no more than 20 gaming machines;
24 made available for use on those premises.

25 *Premises with no more than 10 gaming machines*

26 (4) Subject to subsection (5), if there are no more than 10 gaming
27 machines that are made available for use on small gaming machine
28 premises, then the provisions referred to in subsection (1) apply on
29 and after 1 January 2021 in relation to any gaming machine that:

30 (a) is not made available for use on the premises at any time
31 before 1 January 2021, but is made available for use on the
32 premises at any time on or after that day; or

1 (b) is on the premises, and was manufactured or imported on or
2 after 31 December 2013.

3 *Premises that gain or lose machines*

4 (5) Once subsection (3) begins to apply to a gaming machine that is on
5 gaming machine premises, that subsection continues to apply to the
6 gaming machine despite subsection (4).

7 Example: If there are 11 gaming machines on gaming machine premises, and the
8 premises lose 2 machines, so that there are only 9 gaming machines,
9 the rule in subsection (3) continues to apply to the premises even
10 though there are now fewer than 11 gaming machines.

11 (6) Subsection (5) does not prevent subsection (2) from applying in
12 relation to a gaming machine that is made available for use on
13 gaming machine premises if the premises cease to be small gaming
14 machine premises.

15 **18 Performance of functions etc. after commencement**

16 Despite this Part, any of the following things may occur on or after
17 the day this Act commences, but before the provisions of this Act
18 begin to apply in accordance with this Part, if it is necessary or
19 convenient for the thing to occur for the purpose of making this
20 Act fully effective when, or after, the provisions of this Act begin
21 to apply:

- 22 (a) an application may be made under this Act;
23 (b) a function or duty may be performed under this Act;
24 (c) a power may be exercised under this Act.

25 Example: Examples of things that may occur on or after the day this Act
26 commences, but before the provisions of this Act begin to apply,
27 include the following:

- 28 (a) making regulations for the purposes of section 42, 56, 79 or 80;
29 (b) making and determining applications under section 43 or 46, or
30 under regulations made under section 56;
31 (c) appointing authorised persons under section 112.
32

Section 19

1 **Chapter 2—National gambling reforms**

2 **Part 1—Guide to this Chapter**
3

4 **19 Guide to this Chapter**

5 This Chapter provides for 3 national gambling reforms.

6 Under Part 2, gaming machines must have a precommitment
7 system that complies with the requirements of that Part. A
8 precommitment system allows a user of a gaming machine, who
9 chooses to do so, to register and set a limit (called a loss limit) for a
10 State or Territory on the amount that he or she is prepared to lose
11 during a period (called a limit period) using, as a registered user,
12 gaming machines that are located in that State or Territory.

13 While gaming machines are required to have precommitment
14 systems, users of gaming machines may choose whether to register
15 and set a loss limit through those precommitment systems.

16 A person who chooses to be registered for a State or Territory must
17 indicate, as part of the registration process, whether he or she
18 chooses to set a loss limit for the State or Territory. If a person sets
19 a loss limit and uses a gaming machine as a registered user, then,
20 once the person reaches his or her loss limit during a limit period,
21 the person is prevented from using, as a registered user, gaming
22 machines located in the State or Territory for the rest of the
23 person's limit period.

24 Under Part 3, a gaming machine must provide certain warnings
25 relating to a specific person's use of gaming machines, or the
26 potential for harm from, and the cost of, using gaming machines
27 generally.

28 Under Part 4, automatic teller machines that are on gaming
29 machine premises (other than casinos) must not allow a person to
30 withdraw more than the cash limit (which is \$250 as increased by

Section 19

1
2
3
4
5
6
7
8
9

indexation). In certain cases, the Regulator may determine what constitutes gaming machine premises.

Exemptions from Part 4 of this Chapter, and approvals and licences for precommitment systems, are provided for under Part 5.

Chapter 3 provides for civil penalty provisions in relation to certain gaming machines, and automatic teller machines on gaming machine premises (other than casinos), that do not comply with the requirements of this Chapter.

1 **Part 2—Precommitment systems**

2 **Division 1—Registration through precommitment system**
3 **for user who chooses to register**

4 **20 When a gaming machine is not compliant**

5 A gaming machine is *not compliant* if:

- 6 (a) there is no precommitment system for the gaming machine;
7 or
8 (b) the precommitment system for the gaming machine does not
9 comply with the requirements of this Part; or
10 (c) the precommitment system for the gaming machine is not an
11 approved precommitment system.

12 Note 1: For approvals of precommitment systems, see Division 2 of Part 5.

13 Note 2: For a civil penalty provision in relation to certain gaming machines
14 that are not compliant, see Part 2 of Chapter 3.

15 **21 Precommitment system to provide for registration and**
16 **cancellation**

- 17 (1) A precommitment system for a State or Territory must allow a
18 person who chooses to do so:
19 (a) to register for the State or Territory through the system; and
20 (b) to cancel the person's registration for the State or Territory
21 through the system.
- 22 (2) The precommitment system must prevent a person who has
23 cancelled his or her registration for the State or Territory from
24 re-registering for the State or Territory during the period prescribed
25 by the regulations.

26 *No fees for registration or cancellation*

- 27 (3) A person who registers, or cancels a registration, through a
28 precommitment system must not be charged a fee in relation to the
29 registration or cancellation.

1 **22 Registration process for user who chooses to register**

2 *Deciding whether to set a loss limit*

- 3 (1) A precommitment system for a State or Territory must require a
4 person, who chooses to register for the State or Territory through
5 that system, as part of the registration process:
6 (a) to indicate whether or not the person chooses to set a loss
7 limit for the State or Territory; and
8 (b) if the person chooses to set such a limit—to set a loss limit
9 for the State or Territory.

10 Note 1: A person may set a loss limit of \$0 (see section 24).

11 Note 2: For additional rules in relation to registration, see subsections 28(2) to
12 (4).

13 *Limit periods*

- 14 (2) A precommitment system for a State or Territory must, as part of
15 the registration process, provide a person who chooses to register
16 for the State or Territory through the system with a limit period for
17 the State or Territory.

18 Note: The limit period must comply with section 25.

19 *Information to be provided—if loss limit set*

- 20 (3) If a person chooses to set a loss limit for a State or Territory, the
21 precommitment system for the State or Territory must inform the
22 person of the following, as part of the registration process:
23 (a) that the person's loss limit for the State or Territory applies
24 for the person's limit period for the State or Territory;
25 (b) when the person's first limit period for the State or Territory
26 starts;
27 (c) that each limit period for the State or Territory starts
28 immediately after the previous limit period ends (unless the
29 system allows a person to change when a person's limit
30 period starts).

Section 23

1 *Information to be provided—if no loss limit set*

- 2 (4) If a person does not choose to set a loss limit for a State or
3 Territory, the precommitment system for the State or Territory
4 must inform the person, as part of the registration process:
5 (a) that the person has chosen not to set a loss limit for the State
6 or Territory; and
7 (b) that the person may change this decision at any time.

8 *Regulations*

- 9 (5) The regulations may prescribe requirements relating to the form,
10 frequency, content and position of the information provided for the
11 purposes of subsection (3) or (4).

12 **23 Identification requirements during registration for user who**
13 **chooses to register**

- 14 (1) A precommitment system for a State or Territory may use a
15 signature or photograph to identify a person who chooses to
16 register through the precommitment system.
- 17 (2) A precommitment system for a State or Territory must not use
18 biometric processes to identify a person who chooses to register
19 through the precommitment system.
- 20 (3) The regulations may:
21 (a) prescribe a manner of identifying a person who chooses to
22 register through a precommitment system for a State or
23 Territory (subject to subsection (2)); and
24 (b) prohibit a manner of identifying a person who chooses to
25 register through a precommitment system for a State or
26 Territory.
- 27 (4) A precommitment system for a State or Territory must comply
28 with regulations made for the purposes of subsection (3).

29 **24 Exclusion from system—setting a loss limit of \$0**

- 30 (1) A person may, through a precommitment system for a State or
31 Territory, set a loss limit for the State or Territory of \$0.

Section 26

1 **26 Changing, revoking and setting loss limits and limit periods after**
2 **initial registration**

3 *Loss limits*

4 (1) A precommitment system for a State or Territory must allow a
5 person who is registered for the State or Territory to do the
6 following:

- 7 (a) if the person has a loss limit for the State or Territory:
8 (i) to change the amount of the person's loss limit; or
9 (ii) to revoke the person's loss limit;
10 (b) if the person does not have a loss limit for the State or
11 Territory—to set a loss limit for the State or Territory.

12 Note 1: The effect of revoking a loss limit for a State or Territory is that the
13 person has no loss limit for the State or Territory.

14 Note 2: For when the changes may take effect, see section 27.

15 (2) If a person revokes a loss limit under subparagraph (1)(a)(ii), the
16 precommitment system must inform the person of the matters in
17 paragraphs 22(4)(a) and (b).

18 (3) If a person sets a loss limit under paragraph (1)(b) of this section,
19 the precommitment system must inform the person of the matters
20 in paragraphs 22(3)(a) to (c).

21 *Limit periods*

22 (4) A precommitment system for a State or Territory that allows a
23 person to nominate the length of his or her limit period for the
24 State or Territory must allow the person to change the length of
25 that limit period (subject to subsection 25(2)).

26 **27 When changes to loss limits or limit periods may take effect**

27 (1) This section applies in relation to a person who is registered for a
28 State or Territory.

1 *Loosening limits*

- 2 (2) If any of the following changes are made through a precommitment
3 system for the State or Territory during the person's limit period
4 for the State or Territory, the precommitment system must prevent
5 the change from taking effect until after the end of the limit period:
- 6 (a) an increase in the person's loss limit for the State or
7 Territory;
 - 8 (b) a decrease in the length of the person's limit period for the
9 State or Territory;
 - 10 (c) the revocation of the person's loss limit for the State or
11 Territory.

12 *Tightening limits*

- 13 (3) If any of the following changes are made through a precommitment
14 system for the State or Territory during the person's limit period
15 for the State or Territory, the precommitment system must enable
16 the change to take effect as soon as practicable:
- 17 (a) a decrease in the person's loss limit for the State or Territory;
 - 18 (b) an increase in the person's limit period for the State or
19 Territory;
 - 20 (c) the setting by the person of a loss limit for the State or
21 Territory.
- 22 (4) To avoid doubt, a change referred to in subsection (3) may (subject
23 to subsection 25(2)) take effect before the end of a limit period.
24

Section 28

1 **Division 2—Precommitment system requirements if a**
2 **person chooses to use a gaming machine as a**
3 **registered user**

4 **28 Registration of registered user to comply with requirements**

- 5 (1) A precommitment system for a gaming machine that is located in a
6 State or Territory must prevent a person from using the machine as
7 a registered user if:
8 (a) the person is registered for the State or Territory; and
9 (b) the person's registration for the State or Territory does not
10 comply with this section.

11 Note: A person is not required to be registered (see subsection 21(1)).

12 *Requirements for registration*

- 13 (2) The precommitment system for the State or Territory through
14 which the person registered must be an approved precommitment
15 system.

16 Note: For approvals of precommitment systems, see Division 2 of Part 5.

- 17 (3) The person must have no other registrations for the State or
18 Territory through that or any other precommitment system for the
19 State or Territory.
20 (4) The person's registration through the precommitment system for
21 the State or Territory must have complied with sections 22 to 25.

22 **29 Identification of registered user**

- 23 (1) A person who chooses to use, as a registered user, a gaming
24 machine that is located in a State or Territory must identify himself
25 or herself to the precommitment system for the gaming machine, in
26 accordance with this section, as registered for the State or
27 Territory.
28 (2) The precommitment system must prevent the person from using
29 the machine as a registered user unless the person has done so.

Requirements for identification

- 1
- 2 (3) A precommitment system for a State or Territory must not use
3 biometric processes to identify whether a person is registered for
4 the State or Territory.
- 5 (4) The regulations may:
- 6 (a) prescribe a manner of identifying whether a person is
7 registered for a State or Territory (subject to subsection (3));
8 and
9 (b) prohibit a manner of identifying a person as registered for a
10 State or Territory.
- 11 (5) A precommitment system for a State or Territory must comply
12 with regulations made for the purposes of subsection (4).

13 **30 Monitoring and transmitting expenditure and winnings for**
14 **registered user**

- 15 (1) This section applies if a person uses, as a registered user, a gaming
16 machine that is located in a State or Territory.
- 17 (2) The precommitment system for the gaming machine must monitor
18 the following:
- 19 (a) each amount of money or credit that the person spends using
20 that machine during the person's session of use as a
21 registered user;
- 22 (b) each amount of money or credit that the person wins from
23 that machine during the person's session of use as a
24 registered user.
- 25 Note: An amount includes a nil amount (see the definition of *amount* in
26 section 5).
- 27 (3) At the end of the person's session of use, as a registered user, of
28 the gaming machine, the precommitment system for the gaming
29 machine must transmit the totals of the amounts referred to in
30 paragraphs (2)(a) and (b) in accordance with the regulations.
- 31 (4) If the person's limit period ends before his or her session of use, as
32 a registered user, the totals transmitted under subsection (3) must
33 be transmitted at the end of the person's session of use in relation

Chapter 2 National gambling reforms

Part 2 Precommitment systems

Division 2 Precommitment system requirements if a person chooses to use a gaming machine as a registered user

Section 31

1 to each limit period (or any part of any limit period) that occurs
2 during the person's session of use.

3 **31 Precommitment information for registered user**

4 (1) A precommitment system for a gaming machine that is located in a
5 State or Territory must provide information in accordance with this
6 section if a person who is registered for the State or Territory uses
7 the gaming machine as a registered user.

8 *Information if loss limit set*

9 (2) If the person has a loss limit for the State or Territory, then, at the
10 time the person begins to use the gaming machine as a registered
11 user, the precommitment system must inform the person of the
12 following:

- 13 (a) the person's loss limit for the State or Territory;
14 (b) the person's limit period for the State or Territory;
15 (c) the amount that is remaining of the person's loss limit for the
16 current limit period;
17 (d) any other information prescribed by the regulations.

18 (3) In addition to the information provided under subsection (2), the
19 precommitment system may also inform the person under this
20 section of the following:

- 21 (a) the length of time since the person last set or changed his or
22 her loss limit for the State or Territory;
23 (b) if the system allows the person to nominate a limit period—
24 the length of time since the person last nominated or changed
25 his or her limit period for the State or Territory.

26 *Information if no loss limit set*

27 (4) If the person does not have a loss limit for the State or Territory,
28 then, at the time the person begins to use the gaming machine as a
29 registered user, the precommitment system must inform the person
30 of the following:

- 31 (a) the length of time since the person last decided not to have a
32 loss limit for the State or Territory;
33 (b) any other information prescribed by the regulations.

Section 32

1 Note: For when a person *decides* not have a loss limit for a State or
2 Territory, see section 5.

3 *Information during use*

- 4 (5) If the person uses the gaming machine as a registered user for at
5 least the period of time prescribed by the regulations (whether or
6 not the person has a loss limit for the State or Territory), the
7 precommitment system must inform the person of the following:
8 (a) the person's net losses for the State or Territory during his or
9 her current limit period for the State or Territory;
10 (b) if the person has a loss limit—the amount that is remaining of
11 the person's loss limit for the current limit period;
12 (c) in any case—any other information prescribed by the
13 regulations.

14 *Regulations*

- 15 (6) The regulations may prescribe requirements relating to information
16 provided for the purposes of this section (including, without
17 limitation, in relation to the form, frequency, content and position
18 of such information).

19 **32 No use of gaming machine by registered user after loss limit**
20 **reached**

21 *Preventing a registered user from continuing to use a gaming*
22 *machine*

- 23 (1) A precommitment system for a gaming machine that is located in a
24 State or Territory must prevent a person from continuing to use the
25 gaming machine as a registered user if:
26 (a) the person has a loss limit for the State or Territory; and
27 (b) the person uses the gaming machine as a registered user; and
28 (c) during the person's limit period for the State or Territory, the
29 person's loss limit for the State or Territory is reached (see
30 subsection (3)).

31 Note: The person may use a gaming machine located in the State or
32 Territory as a registered user once the person's current limit period for
33 the State or Territory has ended.

Chapter 2 National gambling reforms

Part 2 Precommitment systems

Division 2 Precommitment system requirements if a person chooses to use a gaming machine as a registered user

Section 32

- 1 (2) The person must be prevented from continuing to use the gaming
2 machine as a registered user as soon as the person's loss limit for
3 the State or Territory is first reached (see subsection (3)).
- 4 (3) A person's loss limit for a State or Territory is *reached* if:
5 (a) the person makes a bet on a gaming machine that is located
6 in the State or Territory; and
7 (b) after the bet is made, the person's net losses for the State or
8 Territory during the person's limit period for the State or
9 Territory equal or exceed the person's loss limit for the State
10 or Territory.

11 *Preventing a registered user from using a gaming machine*

- 12 (4) A precommitment system for a gaming machine that is located in a
13 State or Territory must prevent a person from using the gaming
14 machine as a registered user if:
15 (a) during the person's current limit period for the State or
16 Territory, the person was, under subsection (1), prevented
17 from continuing to use a gaming machine that is located in
18 the State or Territory; or
19 (b) the person has a loss limit of \$0 for the State or Territory.

1 **Division 3—Other requirements for precommitment**
2 **systems**

3 **33 Capability requirement for precommitment systems**

- 4 (1) As part of the requirements set out in this Part, a precommitment
5 system for a gaming machine that is located in a State or Territory
6 must have the capability to prevent a person who is not registered
7 for the State or Territory from using the gaming machine.
- 8 (2) To avoid doubt, although the precommitment system is required to
9 have this capability, the precommitment system is not actually
10 required to prevent a person who is not registered for the State or
11 Territory from using the gaming machine unless amendments are
12 made to this Act requiring this.

13 **34 Transaction statement for registered user**

- 14 (1) A precommitment system for a State or Territory must, on request
15 by a person who is registered for the State or Territory, provide the
16 person with the person's transaction statement in accordance with
17 this section.
- 18 (2) A person's *transaction statement* is a written statement of the
19 following:
- 20 (a) the person's loss limit (if any) for the State or Territory;
- 21 (b) the length of time since the person last:
- 22 (i) set or changed his or her loss limit; or
- 23 (ii) decided not to have a loss limit for the State or
24 Territory;
- 25 (c) the amount of money or credit that the person has spent
26 using, and won from, gaming machines in the State or
27 Territory that the person has used as a registered user during:
- 28 (i) the previous 12 months; and
- 29 (ii) the person's current limit period for the State or
30 Territory;
- 31 (d) the number of times during the previous 12 months that the
32 person was prevented under section 32 from using, or
33 continuing to use, a gaming machine as a registered user.

Chapter 2 National gambling reforms

Part 2 Precommitment systems

Division 3 Other requirements for precommitment systems

Section 35

1 Note 1: For when a person *decides* not to have a loss limit for a State or
2 Territory, see section 5.

3 Note 2: An amount includes a nil amount (see the definition of *amount* in
4 section 5).

5 *Person must not be charged a fee*

6 (3) A person who is provided with a transaction statement must not be
7 charged a fee for the transaction statement.

8 *Regulations*

9 (4) The regulations may prescribe requirements in relation to
10 transaction statements.

11 **35 Additional requirements for precommitment systems in**
12 **regulations**

13 (1) The regulations may prescribe additional requirements in relation
14 to precommitment systems.

15 (2) This section is not limited by any other section in this Part.

16 Note: However, the regulations may not prescribe requirements that are
17 inconsistent with the scheme established by this Part, such as
18 requiring all users of gaming machines to be registered for a State or
19 Territory.

20 **36 No national database of protected information from**
21 **precommitment systems**

22 A national database of protected information that has been
23 obtained from precommitment systems must not be established.
24

1 **Part 3—Dynamic warnings**
2

3 **37 When a gaming machine is not compliant**

4 A gaming machine is *not compliant* if the gaming machine does
5 not provide a warning in accordance with section 38.

6 **38 Dynamic warnings**

7 (1) A gaming machine must provide warnings electronically in
8 accordance with this section.

9 Note: For a civil penalty provision for certain gaming machines that are not
10 compliant, see Part 2 of Chapter 3.

11 *What warnings relate to*

- 12 (2) The warnings must relate to:
13 (a) the use by a specific person of a gaming machine or gaming
14 machines; or
15 (b) the potential for harm from, and the cost of, using gaming
16 machines generally.

17 *Relationship with section 31*

18 (3) This section is not limited by section 31 (precommitment
19 information).

20 *Regulations*

- 21 (4) Without limiting subsection (1), the regulations may prescribe the
22 form, frequency, content and position of the warnings.
23 (5) The regulations may prescribe any other requirements in relation to
24 warnings provided in accordance with this section.

25 Note: However, the regulations may not prescribe requirements that are
26 inconsistent with this Part.
27

Section 39

1 **Part 4—ATM withdrawal limit for gaming machine**
2 **premises (other than casinos)**
3

4 **39 ATM withdrawal limit for gaming machine premises (other than**
5 **casinos)**

- 6 (1) An automatic teller machine that is on gaming machine premises
7 must not allow a person to withdraw more than the cash limit.

8 Note 1: For civil penalty provisions for automatic teller machines that do not
9 comply with this section, see Part 3 of Chapter 3.

10 Note 2: This section is not intended to affect a law of a State or Territory that
11 is capable of operating concurrently (see section 11). An example of
12 such a law is a law that prohibits automatic teller machines from being
13 on gaming machine premises.

14 *When a person withdraws more than the cash limit*

- 15 (2) A person *withdraws more than the cash limit* from an automatic
16 teller machine that is on premises if, after the person withdraws
17 cash from the automatic teller machine, the person has withdrawn,
18 using any one card, more than \$250 cash in total in a period of 24
19 hours from that or any other automatic teller machine that is on the
20 premises.

21 Note: For indexation of the cash amount, see section 40.

22 *Casinos exempt*

- 23 (3) This Part does not apply in relation to premises that are (or are part
24 of premises that are) licensed or approved as a casino in the State
25 or Territory where the premises are located.

26 Note: For other exemptions from this Part, see Division 1 of Part 5.

27 **40 Indexation**

- 28 (1) The regulations may specify:
29 (a) an index for the purposes of this section; and
30 (b) the manner of working out an increase in the amount of cash
31 mentioned in subsection 39(2) by reference to the movement
32 of that index over the year ending each 31 December.
-

- 1 (2) The amount of cash referred to in subsection 39(2), for a year in
2 which there is an increase in the specified index, is increased in the
3 manner prescribed by the regulations.

4 **41 Anti-avoidance—determination of gaming machine premises**

- 5 (1) The Regulator may make a determination under this section if:
6 (a) at any time after this Act commences, a person provides an
7 automatic teller machine at a place; and
8 (b) it would be concluded that the person who provided the
9 automatic teller machine at that place did so for the sole or
10 dominant purpose of enabling a person (the *beneficiary*) to
11 avoid the operation of this Part or Part 3 of Chapter 3 (civil
12 penalty provisions), having regard to the following matters:
13 (i) the place at which, and the manner in which, the
14 automatic teller machine was provided;
15 (ii) the time when automatic teller machine began to be
16 provided at that place.

17 Note 1: For review of a decision to make a determination, see sections 198 and
18 199.

19 Note 2: This section applies whether a person provides an automatic teller
20 machine alone or together with others (see section 8).

21 *Determination of gaming machine premises*

- 22 (2) For the purposes of this Part, and any other provision of this Act to
23 the extent that it relates to this Part, the Regulator may, in writing,
24 determine that the place is, or is part of, gaming machine premises.
- 25 (3) A determination under subsection (2) is not a legislative
26 instrument.
- 27 (4) For the purposes of subsection (1), it is immaterial whether the
28 beneficiary is the person mentioned in paragraph (1)(a).
29

1 **Part 5—Provisions related to national gambling**
2 **reforms**

3 **Division 1—Exemptions from ATM withdrawal limit**

4 **42 Exemptions from ATM withdrawal limit—regulations**

- 5 (1) The regulations may prescribe premises which are exempt from the
6 operation of Part 4 of this Chapter (ATM withdrawal limit).

7 Note: For the effect of an exemption on a State or Territory law, see
8 section 45.

- 9 (2) The regulations may also prescribe conditions that must be
10 complied with in order for the premises to be exempt.

11 **43 Exemptions from ATM withdrawal limit—application to**
12 **Regulator**

- 13 (1) A person who occupies gaming machine premises may apply to the
14 Regulator for the premises to be exempt from the operation of
15 Part 4 of this Chapter (ATM withdrawal limit).

16 Note: For the effect of an exemption on a State or Territory law, see
17 section 45.

- 18 (2) An application must be in the approved form.

- 19 (3) The Regulator may exempt those premises, in writing, from the
20 operation of that Part if the Regulator is satisfied that compliance
21 with the Part will cause unreasonable inconvenience to members of
22 the community where the premises are located.

23 Note: For review of a decision to refuse to grant an exemption, see
24 sections 198 and 199.

- 25 (4) The Regulator may specify, in the exemption, conditions that must
26 be satisfied in order for the exemption to apply.

27 Note: For review of a decision to specify conditions, see sections 198 and
28 199.

- 29 (5) The Regulator may, in writing, vary or revoke a condition specified
30 under subsection (4).

1 Note: For review of a decision to vary a condition, see sections 198 and 199.

2 (6) An exemption is not a legislative instrument.

3 **44 Process for deciding exemptions**

- 4 (1) In deciding whether to grant an exemption under section 43, the
5 Regulator must have regard to the following matters:
6 (a) the object of this Act (see section 4);
7 (b) any other facilities (whether an automatic teller machine or
8 otherwise) members of the community have for withdrawing
9 cash;
10 (c) any other matter the Regulator considers appropriate.
- 11 (2) Before deciding whether to grant an exemption under section 43,
12 the Regulator may consult with any of the following that the
13 Regulator considers is appropriate:
14 (a) a State government agency;
15 (b) a local government agency;
16 (c) a community group;
17 (d) an individual within the community;
18 (e) any other person or body.

19 **45 Effect of exemptions on State or Territory law**

20 To avoid doubt, the fact that premises are exempt under this
21 Division is not intended to exclude or limit the operation of a law
22 of a State or Territory that is capable of operating concurrently
23 with this Act.
24

Section 46

1 **Division 2—Approvals and licences for precommitment**
2 **systems**

3 **Subdivision A—Approving precommitment systems**

4 **46 Applications for approvals**

5 A licensed provider of a precommitment system (the *applicant*)
6 may apply to the Regulator for approval of:

- 7 (a) the precommitment system for a State or Territory; or
8 (b) a variation to the approved terms and conditions for the
9 precommitment system for a State or Territory.

10 **47 Form of applications**

- 11 (1) An application under this Subdivision must:
12 (a) be in the approved form; and
13 (b) be accompanied by any other documents or information
14 prescribed by the regulations; and
15 (c) be accompanied by the fee (if any) prescribed by the
16 regulations; and
17 (d) for an application to approve a precommitment system for a
18 State or Territory—be accompanied by the terms and
19 conditions on which the precommitment system would be
20 provided; and
21 (e) for an application to approve a variation to the approved
22 terms and conditions for a precommitment system for a State
23 or Territory—be accompanied by the variation to the
24 approved terms and conditions for the precommitment
25 system.

- 26 (2) A fee prescribed under paragraph (1)(c) must not be such as to
27 amount to taxation.

28 **48 Requiring further information**

- 29 (1) The Regulator may, by notice given to an applicant, require the
30 applicant to provide to the Regulator any other document, or

1 information, that the Regulator thinks necessary in order to form an
2 opinion whether to grant an approval under this Subdivision.

3 (2) The Regulator is not required to make a decision under this
4 Subdivision until the document or information required under
5 subsection (1) has been provided.

6 **49 Amendment and withdrawal of applications**

7 *Amending applications*

8 (1) An applicant may amend an application at any time before the
9 Regulator makes a decision on the application.

10 (2) An applicant must not be charged a fee for amending an
11 application.

12 *Withdrawing applications*

13 (3) An applicant may withdraw an application at any time before the
14 Regulator makes a decision on the application.

15 (4) Subsection (3) does not prevent the applicant from making a fresh
16 application.

17 (5) The Regulator must, on behalf of the Commonwealth, refund any
18 application fee that has been paid by an applicant who withdraws
19 an application.

20 **50 Testing precommitment systems**

21 (1) For the purposes of determining whether a precommitment system
22 complies with the requirements of Part 2 of this Chapter, the
23 Regulator may require the system to be tested in accordance with a
24 procedure prescribed by the regulations.

25 (2) Without limiting subsection (1), the regulations may provide for a
26 scheme (including any fees payable in relation to such a scheme) to
27 license the persons who are to test precommitment systems in
28 accordance with a procedure prescribed by the regulations.

Section 51

1 **51 Approving precommitment systems and variations to approved**
2 **terms and conditions**

3 *Approving precommitment systems*

- 4 (1) The Regulator may (subject to subsection (2)) approve, in writing,
5 a precommitment system for a State or Territory if the Regulator is
6 satisfied that:
- 7 (a) an application has been made to approve the precommitment
8 system for the State or Territory, and any fee prescribed by
9 the regulations has been paid for the application; and
 - 10 (b) the precommitment system complies with the requirements of
11 Part 2 of this Chapter; and
 - 12 (c) the terms and conditions on which the precommitment
13 system would be provided are reasonable, taking into account
14 the matters prescribed by the regulations.

15 Note: For review of a decision to refuse to approve a precommitment system
16 for a State or Territory, see sections 198 and 199.

- 17 (2) The Regulator may (under subsection (1)) refuse to approve a
18 precommitment system for a State or Territory if the Regulator is
19 satisfied that, despite the precommitment system complying with
20 the requirements of Part 2 of this Chapter, the precommitment
21 system includes one or more features that are incompatible with the
22 object of this Act (see section 4).

- 23 (3) If the Regulator approves a precommitment system for a State or
24 Territory under subsection (1), the Regulator is taken to have
25 approved the terms and conditions on which the precommitment
26 system would be provided.

27 Note: For a civil penalty provision for providing a precommitment system
28 for a State or Territory on terms and conditions other than the
29 approved terms and conditions, see section 55.

30 *Approving variations of approved terms and conditions*

- 31 (4) The Regulator may approve, in writing, a variation to the approved
32 terms and conditions for a precommitment system for a State or
33 Territory if the Regulator is satisfied that those terms and
34 conditions as varied are reasonable, taking into account the matters
35 prescribed by the regulations.

1 Note: For review of a decision to refuse to approve a variation to the
2 approved terms and conditions for a precommitment system for a
3 State or Territory, see sections 198 and 199.

4 **52 Notification of approvals**

5 *Giving copies of approvals of precommitment systems*

- 6 (1) As soon as practicable after giving an approval for a
7 precommitment system for a State or Territory under subsection
8 51(1), the Regulator must give the applicant a copy of the
9 approval.
- 10 (2) The approval must set out the approved terms and conditions for
11 the precommitment system.

12 *Approving varied terms and conditions*

- 13 (3) If the Regulator approves a variation to the approved terms and
14 conditions for a precommitment system for a State or Territory, the
15 Regulator must vary the approval of the precommitment system to
16 include the variation to the approved terms and conditions.

17 *Length of approvals of precommitment system*

- 18 (4) An approval of a precommitment system for a State or Territory
19 has effect for 10 years (unless it is revoked earlier).

20 *Publishing approvals*

- 21 (5) The Regulator must publish a copy of an approval of a
22 precommitment system for a State or Territory (including an
23 approval as varied under subsection (3)) by any means the
24 Regulator considers appropriate.

25 **53 Changes to precommitment requirements**

26 To avoid doubt, a change to regulations made for the purposes of
27 Part 2 of this Chapter applies to any approved precommitment
28 system.

Section 54

1 **54 Revocation of approvals**

- 2 (1) The Regulator may revoke an approval of a precommitment system
3 for a State or Territory if the Regulator is satisfied that:
- 4 (a) the precommitment system does not comply with the
5 requirements of Part 2 of this Chapter; or
 - 6 (b) despite the precommitment system complying with the
7 requirements of Part 2 of this Chapter, the precommitment
8 system includes one or more features that are incompatible
9 with the object of this Act (see section 4); or
 - 10 (c) the precommitment system is being provided on terms and
11 conditions other than the approved terms and conditions.
- 12 Note: For review of a decision to revoke an approval of a precommitment
13 system for a State or Territory, see sections 198 and 199.
- 14 (2) The Regulator must publish a notice revoking an approval of a
15 precommitment system for a State or Territory by any means the
16 Regulator considers appropriate.

17 **55 Civil penalty for failing to provide precommitment system in**
18 **accordance with approved terms and conditions**

19 A licensed provider of a precommitment system, that is a
20 constitutional corporation, must not provide an approved
21 precommitment system on terms and conditions other than the
22 approved terms and conditions.

23 Civil penalty: 200 penalty units.

24 **Subdivision B—Licences for providing etc. precommitment**
25 **systems**

26 **56 Regulations may provide in relation to licensing persons who**
27 **provide etc. precommitment systems**

- 28 (1) The regulations may provide a scheme (including any fees payable
29 in relation to such a scheme) to license persons who may provide
30 precommitment systems for gaming machines.

- 1 (2) The regulations may provide a scheme (including any fees payable
2 in relation to such a scheme) to license persons who may operate,
3 repair, maintain or install precommitment systems for gaming
4 machines.
5

Section 57

1 **Chapter 3—Civil penalty provisions for**
2 **non-compliance with national**
3 **gambling reforms**

4 **Part 1—Guide to this Chapter**
5

6 **57 Guide to this Chapter**

7 This Chapter contains civil penalty provisions in relation to gaming
8 machines and automatic teller machines that do not comply with
9 the requirements of Chapter 2.

10 Under Part 2 of this Chapter, a person may contravene a civil
11 penalty provision if the person makes a non-compliant gaming
12 machine available for use, and the gaming machine is:

- 13 (a) made available for use by a constitutional
14 corporation; or
- 15 (b) owned, or on premises occupied, by a
16 constitutional corporation (but only in certain
17 circumstances).

18 Under Part 3 of this Chapter, a person may contravene a civil
19 penalty provision for:

- 20 (a) occupying gaming machine premises on which
21 there is a non-compliant automatic teller machine;
22 or
- 23 (b) providing a non-compliant automatic teller
24 machine on gaming machine premises.

25 Part 2 of Chapter 8 has general provisions relating to civil penalty
26 provisions.
27

1 **Part 2—Gaming machines that do not comply with**
2 **precommitment and dynamic warning**
3 **requirements**
4

5 **58 Making non-compliant gaming machine available for use**

6 (1) A person contravenes this subsection if:

- 7 (a) the person makes a gaming machine available for use (or
8 continues to make a gaming machine available for use) at a
9 particular time; and
10 (b) the gaming machine is not compliant at that time; and
11 (c) any of the following applies at that time:
12 (i) the person is a constitutional corporation;
13 (ii) the gaming machine is owned by a constitutional
14 corporation, and the person makes the gaming machine
15 available for use (or continues to make the gaming
16 machine available for use) as the agent of the
17 constitutional corporation;
18 (iii) the gaming machine is owned by a constitutional
19 corporation, and the person makes the gaming machine
20 available for use (or continues to make the gaming
21 machine available for use) for the purposes of, or in the
22 course of, conducting the constitutional corporation's
23 business or activities;
24 (iv) the gaming machine is located on premises occupied by
25 a constitutional corporation, and the person makes the
26 gaming machine available for use (or continues to make
27 the gaming machine available for use) for the purposes
28 of, or in the course of, conducting the constitutional
29 corporation's business or activities.

30 Civil penalty: 10 penalty units in relation to each day on
31 which the gaming machine is made available for use.

32 Note: This subsection applies whether the person makes the gaming machine
33 available for use alone or together with others (see section 8).

Section 58

- 1 *Exception—areas of Australia not covered by approved*
2 *precommitment systems*
- 3 (2) Subsection (1) does not apply at a particular time if, at that time:
4 (a) either:
5 (i) a gaming machine is made available for use in
6 Australia; or
7 (ii) a gaming machine is capable of being made available
8 for use in Australia in accordance with the law of the
9 State or Territory in which the gaming machine is
10 located; and
11 (b) there is not an approved precommitment system for a State or
12 Territory:
13 (i) that could operate in relation to that gaming machine;
14 and
15 (ii) that is available to be purchased.

16 Note: For the definition of *Australia*, see section 5.

- 17 (3) Subsection (2) applies whether or not the gaming machine referred
18 to in that subsection is the one referred to in subsection (1), and
19 regardless of who makes, or would make, the gaming machine
20 available for use.
- 21 (4) For the purposes of paragraph (2)(b), an approved precommitment
22 system for a State or Territory could operate in relation to a gaming
23 machine even if the precommitment system is temporarily
24 unavailable as a result of an operational or technical issue.

25 Example: An example of an operational issue that causes a precommitment
26 system to be temporarily unavailable is a power outage.

27 *Exception—lack of knowledge of non-compliance*

- 28 (5) Subsection (1) does not apply at a particular time if, at that time:
29 (a) the gaming machine referred to in subsection (1) is not
30 compliant only because:
31 (i) the precommitment system for the gaming machine fails
32 to comply with one or more requirements of Part 2 of
33 Chapter 2; or

Section 58

- 1 (ii) the gaming machine fails to comply with one or more
2 requirements of Part 3 of Chapter 2; and
3 (b) the person does not know, and could not reasonably be
4 expected to know, that the precommitment system or gaming
5 machine does not comply with those requirements.

6 *Exception—lack of fault in relation to non-compliance*

- 7 (6) Subsection (1) does not apply at a particular time if, at that time:
8 (a) the gaming machine referred to in subsection (1) is not
9 compliant only because:
10 (i) the precommitment system for the gaming machine fails
11 to comply with one or more requirements of Part 2 of
12 Chapter 2; or
13 (ii) the gaming machine fails to comply with one or more
14 requirements of Part 3 of Chapter 2; and
15 (b) the failure is a result of an operational or technical issue; and
16 (c) the failure is not the fault of any person who makes the
17 gaming machine available for use; and
18 (d) remedying the failure is not within the control of any person
19 who makes the gaming machine available for use.

20 *Evidential burden*

- 21 (7) A person who chooses to rely on subsection (2), (5) or (6) in
22 proceedings for a civil penalty order bears an evidential burden in
23 relation to the matters in that subsection.
24

Section 59

1 **Part 3—Automatic teller machines that do not**
2 **comply with withdrawal limit requirements**

3 **Division 1—Constitutional provisions**

4 **59 Application of this Part**

5 This Part applies to any automatic teller machine that dispenses
6 currency.

7 **60 Additional operation of this Part**

8 (1) Without prejudice to its effect apart from this section, this Part also
9 has effect as provided by this section.

10 (2) This Part has, by force of this subsection, the effect it would have
11 if references in this Part to a person who provides an automatic
12 teller machine were, by express provision, confined to:

13 (a) a bank (other than a State bank); or

14 (b) any other institution engaged in banking;

15 that provides an automatic teller machine in the course of banking
16 (within the meaning of section 51(xiii) of the Constitution).

17 (3) This Part has, by force of this subsection, the effect it would have
18 if references in this Part to a person who occupies premises, or a
19 person who provides an automatic teller machine, were, by express
20 provision, confined to a constitutional corporation.

21 **61 Part not to apply to State banking**

22 This Part does not apply with respect to State banking that does not
23 extend beyond the limits of the State concerned.
24

1 **Division 2—Civil penalty provisions**

2 **62 Occupying premises containing non-compliant automatic teller**
3 **machine**

4 A person contravenes this section if:

- 5 (a) the person occupies premises; and
6 (b) the premises are gaming machine premises; and
7 (c) the person allows another person to provide an automatic
8 teller machine on the premises; and
9 (d) the automatic teller machine would allow a person to
10 withdraw more than the cash limit.

11 Civil penalty: 5 penalty units in relation to each day on
12 which the automatic teller machine would allow a person
13 to withdraw more than the cash limit.

14 Note 1: There is an exception to this section in section 65 (premises covered
15 by exemption and casinos).

16 Note 2: This section applies whether the person occupies premises alone or
17 together with others (see section 8).

18 **63 Providing non-compliant automatic teller machine**

19 A person contravenes this section if:

- 20 (a) the person provides an automatic teller machine on premises;
21 and
22 (b) the premises are gaming machine premises; and
23 (c) the automatic teller machine would allow a person to
24 withdraw more than the cash limit.

25 Civil penalty: 10 penalty units in relation to each day on
26 which the automatic teller machine would allow a person
27 to withdraw more than the cash limit.

28 Note 1: There is an exception to this section in section 65 (premises covered
29 by exemption and casinos).

30 Note 2: This section applies whether the person provides an automatic teller
31 machine alone or together with others (see section 8).

Section 64

1 **64 Civil penalty provision contravened without a person**
2 **withdrawing more than cash limit**

3 To avoid doubt, a person can contravene section 62 or 63 whether
4 or not any person actually withdraws more than the cash limit.

5 **65 Exception for premises covered by exemption and casinos**

6 *Exemptions*

- 7 (1) Sections 62 and 63 do not apply in relation to a person who
8 occupies premises, or a person who provides an automatic teller
9 machine on premises, if:
10 (a) an exemption under section 42 or 43 applies in relation to the
11 premises; and
12 (b) if conditions are specified under subsection 42(2) or 43(4) in
13 order for an exemption to apply to those premises—those
14 conditions are complied with.

15 *Casinos*

- 16 (2) Sections 62 and 63 do not apply in relation to:
17 (a) a person who occupies premises; or
18 (b) a person who provides an automatic teller machine on
19 premises;
20 that are licensed or approved as a casino in the State or Territory
21 where the premises are located.

22 *Evidential burden*

- 23 (3) A person who chooses to rely on subsection (1) or (2) of this
24 section in proceedings for a civil penalty order bears an evidential
25 burden in relation to the matters in that subsection.
26

1 **Chapter 4—Privacy**

2 **Part 1—Guide to this Chapter**

3

4 **66 Guide to this Chapter**

5

Part 2 of this Chapter creates offences to protect information that has been obtained under this Act, including information obtained from precommitment systems, from unauthorised disclosure or use.

6

7

8

Staff and former staff of the Regulator, and any person who obtains information from a precommitment system, and certain others, may commit an offence for disclosing or using the information if the disclosure or use is not authorised.

9

10

11

12

Disclosing information is authorised in a number of situations, including for the purposes of this Act or law enforcement, or with consent. Using information is authorised for the purposes of this Act.

13

14

15

16

1 **Part 2—Privacy**

2 **Division 1—Offences for unauthorised disclosure or use of**
3 **protected information**

4 **67 Offences for unauthorised disclosure or use of protected**
5 **information**

6 *Offence—entrusted persons*

- 7 (1) A person commits an offence if:
8 (a) the person is an entrusted person; and
9 (b) the person has obtained protected information in the person's
10 capacity as such a person; and
11 (c) the person:
12 (i) discloses the information to another person; or
13 (ii) uses the information; and
14 (d) the disclosure or use is not an authorised disclosure or use.

15 Penalty: 120 penalty units or imprisonment for 2 years, or both.

16 *Offence—information obtained from precommitment systems*

- 17 (2) A person commits an offence if:
18 (a) the person obtains protected information from a
19 precommitment system; and
20 (b) the person:
21 (i) discloses the information to another person; or
22 (ii) uses the information; and
23 (c) the disclosure or use is not an authorised disclosure or use.

24 Penalty: 120 penalty units or imprisonment for 2 years, or both.

25 *Offence—information obtained by authorised disclosure*

- 26 (3) A person commits an offence if:
27 (a) the person obtains protected information by way of an
28 authorised disclosure; and

- 1 (b) the person discloses the information to another person; and
2 (c) the disclosure is not an authorised disclosure.

3 Penalty: 120 penalty units or imprisonment for 2 years, or both.

4 *Definition—entrusted person*

- 5 (4) A person is an **entrusted person** if the person is or was:
6 (a) the Regulator; or
7 (b) an authorised person; or
8 (c) a person assisting an authorised person; or
9 (d) an officer or employee made available to assist the Regulator
10 under section 108; or
11 (e) a consultant engaged under section 109; or
12 (f) a person who is exercising powers, or performing functions,
13 under a delegation under section 200.

14 *Definition—protected information*

- 15 (5) Information is **protected information** if:
16 (a) any of the following apply in relation to the information:
17 (i) the information is obtained by a person in the course of
18 performing duties or functions, or exercising powers,
19 under this Act;
20 (ii) the information is obtained by a person from a
21 precommitment system;
22 (iii) the information was information to which
23 subparagraph (i) or (ii) of this paragraph applied, and is
24 obtained by a person by way of an authorised
25 disclosure; and
26 (b) the information relates to a person other than the person who
27 obtained it.

28 *Definition—authorised disclosure or use*

- 29 (6) A disclosure or use of information is an **authorised disclosure or**
30 **use** if the disclosure or use is authorised under this Division (and a
31 disclosure of information is an **authorised disclosure** if the
32 disclosure is authorised under this Division).

1 **Division 2—Authorised disclosure or use by Regulator,**
2 **other entrusted persons and others**

3 **Subdivision A—Authorised disclosure or use by Regulator,**
4 **other entrusted persons and others**

5 **68 Authorised disclosure or use—official duties**

6 *Entrusted person*

- 7 (1) An entrusted person may disclose or use protected information if:
8 (a) the disclosure or use is made for the purposes of this Act; and
9 (b) the person has not ceased to be a person of a kind referred to
10 in any of paragraphs 67(4)(a) to (f).

11 *Information from precommitment systems*

- 12 (2) A person who obtains protected information from a
13 precommitment system may disclose or use the information if the
14 disclosure or use is made for the purposes of this Act.

15 *Authorised disclosure information*

- 16 (3) A person who obtains authorised disclosure information may
17 disclose the information if the disclosure is made for the purposes
18 of this Act.

19 **69 Who may disclose or use information in accordance with**
20 **sections 70 to 73**

- 21 (1) The following persons may disclose protected information in
22 accordance with sections 70 to 73, or use protected information in
23 accordance with section 71:
24 (a) the Regulator (including any person who is performing
25 functions or exercising powers under any one or more of
26 those sections under a delegation);
27 (b) if the information is protected information obtained from a
28 precommitment system—the person who obtains the
29 protected information;

Section 70

1 (c) if the information is authorised disclosure information—the
2 person who obtains the authorised disclosure information.

3 (2) However, an entrusted person is not authorised by paragraph (1)(b)
4 or (c) to disclose protected information in accordance with
5 sections 70 to 73, or use protected information in accordance with
6 section 71.

7 **70 Authorised disclosure—law enforcement**

8 (1) A person referred to in subsection 69(1) may disclose protected
9 information if:
10 (a) the person believes on reasonable grounds that the disclosure
11 is reasonably necessary for:
12 (i) the enforcement of the criminal law; or
13 (ii) the enforcement of a law imposing a pecuniary penalty;
14 or
15 (iii) the protection of the public revenue; and
16 (b) the information is disclosed to one of the following bodies:
17 (i) a Department, agency or authority of the
18 Commonwealth, a State or a Territory;
19 (ii) the Australian Federal Police, or a police force or police
20 service of a State or Territory; and
21 (c) the body's functions include that enforcement or protection.

22 *Conditions*

23 (2) The Regulator may, in writing, impose conditions to be complied
24 with in relation to particular protected information that is disclosed
25 under subsection (1).

26 (3) A person commits an offence if:
27 (a) the person is subject to a condition under subsection (2); and
28 (b) the person engages in conduct; and
29 (c) the person's conduct breaches the condition.

30 Penalty: 120 penalty units or imprisonment for 2 years, or both.

31 (4) An instrument under subsection (2) is not a legislative instrument.

1 71 Authorised disclosure or use—consent

2 A person referred to in subsection 69(1) may disclose or use
3 protected information if the person to whom the information relates
4 consents to the disclosure or use (as the case requires).

5 72 Authorised disclosure—threat to life or health

6 A person referred to in subsection 69(1) may disclose protected
7 information if the disclosure is:
8 (a) necessary to prevent or lessen a serious and imminent threat
9 to the life or health of a person; and
10 (b) for the purposes of preventing or lessening that threat.

11 73 Authorised disclosure—publicly available information

12 A person referred to in subsection 69(1) may disclose protected
13 information if the information has already been lawfully made
14 publicly available.

15 Subdivision B—Authorised disclosure by Regulator**16 74 Authorised disclosure—Minister**

17 The Regulator may disclose protected information to the Minister.

**18 75 Authorised disclosure—Commonwealth, State and Territory
19 agencies**

20 (1) The Regulator may disclose protected information if:
21 (a) the information consists of protected information that has
22 been de-identified; and
23 (b) the disclosure is to a Department, agency or authority of the
24 Commonwealth, a State or a Territory; and
25 (c) the disclosure is for the purposes of enabling or assisting that
26 Department, agency or authority to perform its functions or
27 exercise its powers.

Section 76

1

Conditions

2

(2) The Regulator may, in writing, impose conditions to be complied with in relation to particular protected information that is disclosed under subsection (1).

3

4

5

(3) A person commits an offence if:

6

(a) the person is subject to a condition under subsection (2); and

7

(b) the person engages in conduct; and

8

(c) the person's conduct breaches the condition.

9

Penalty: 120 penalty units or imprisonment for 2 years, or both.

10

(4) An instrument under subsection (2) is not a legislative instrument.

11

76 Authorised disclosure—research

12

The Regulator may disclose protected information if:

13

(a) the information has been de-identified; and

14

(b) the information is disclosed to a person or body who

15

conducts research into gambling for the purposes of this Act.

16

77 Authorised disclosure—summaries and statistics

17

The Regulator may disclose:

18

(a) summaries of protected information; or

19

(b) statistics derived from protected information;

20

if those summaries or statistics are not likely to enable the identification of a person.

21

22

1 **Chapter 5—Requirements for manufacturing**
2 **and importing gaming machines**

3 **Part 1—Guide to this Chapter**
4

5 **78 Guide to this Chapter**

6 Under this Chapter, a person may contravene a civil penalty
7 provision if:

8 (a) the person is a constitutional corporation who
9 manufactures a gaming machine; or

10 (b) the person imports a gaming machine;

11 that is not capable of providing for precommitment.
12

1 **Chapter 6—Liability for, and collection and**
2 **recovery of, supervisory and gaming**
3 **machine regulation levies**

4 **Part 1—Guide to this Chapter**
5

6 **81 Guide to this Chapter**

7 This Chapter deals with the supervisory levy and the gaming
8 machine regulation levy.

9 The purpose of the supervisory levy is to cover the costs to the
10 Commonwealth in relation to the administration of this Act, the
11 *National Gambling Reform (Related Matters) Act (No. 1) 2012* and
12 the *National Gambling Reform (Related Matters) Act (No. 2) 2012*.

13 The supervisory levy is payable if a person makes a gaming
14 machine available for use at any time during a levy period. The
15 amount of the supervisory levy imposed by the *National Gambling*
16 *Reform (Related Matters) Act (No. 1) 2012* is worked out in
17 accordance with a method prescribed by regulations made under
18 that Act.

19 The gaming machine regulation levy is payable if a person makes a
20 gaming machine available for use at any time during a levy period.
21 However, the gaming machine regulation levy is not payable in
22 certain cases, such as cases related to constitutional corporations or
23 if gaming machines comply with the requirements of Parts 2 and 3
24 of Chapter 2 (precommitment systems and dynamic warnings).

25 This Chapter also has rules about collecting and recovering the
26 levies.
27

Section 82

1
2

Part 2—Liability for supervisory levy

3

82 Purpose of supervisory levy

4
5
6
7

The purpose of the supervisory levy is to cover the costs to the Commonwealth in relation to the administration of this Act, the *National Gambling Reform (Related Matters) Act (No. 1) 2012* and the *National Gambling Reform (Related Matters) Act (No. 2) 2012*.

8

83 Liability for supervisory levy

9
10
11

An amount of supervisory levy is payable for a gaming machine for a levy period if a person makes the gaming machine available for use at any time during that period.

12
13
14
15

Note 1: An amount of supervisory levy is not payable until regulations are made under section 6 of the *National Gambling Reform (Related Matters) Act (No. 1) 2012* prescribing a method for working out the amount.

16

Note 2: For the collection and recovery of the supervisory levy, see Part 4.

17
18

Note 3: This section applies whether the person makes the gaming machine available for use alone or together with others (see section 8).

19

84 Who is liable to pay the supervisory levy

20
21
22
23
24

(1) An amount of supervisory levy is payable under section 83 for a gaming machine for a levy period by a person (the *licensee*) who holds, at any time during the levy period, an approval or licence (however described) under a law of a State or Territory to operate the gaming machine.

25
26
27
28

(2) If, during a levy period, there is no licensee in relation to a gaming machine, an amount of supervisory levy is payable under section 83 for the gaming machine for the levy period by the person who makes the gaming machine available for use.

29
30

Note: This subsection applies whether the person makes the gaming machine available for use alone or together with others (see section 8).

31
32
33

(3) If more than one person is liable to pay an amount of levy under subsection (1) or (2) of this section, then all such persons are jointly liable to pay the amount of supervisory levy.

Section 84

1 Note: For right of contribution if persons are jointly liable, see section 94.

2 (4) An agency (however described) of the Commonwealth, a State or a
3 Territory, or a body established for a public purpose by or under a
4 law of the Commonwealth, a State or a Territory, is not liable to
5 pay an amount of supervisory levy.
6

Section 85

1 **Part 3—Liability for gaming machine regulation**
2 **levy**
3

4 **85 Liability for gaming machine regulation levy**

- 5 (1) An amount of gaming machine regulation levy is payable for a
6 gaming machine for a levy period if:
7 (a) a person makes the gaming machine available for use during
8 the levy period; and
9 (b) at any one or more times during the levy period when the
10 gaming machine is made available for use, none of
11 subsections (2), (3), (4), (7) or (8) applies.

12 Note 1: For the collection and recovery of the gaming machine regulation
13 levy, see Part 4.

14 Note 2: This section applies whether the person makes the gaming machine
15 available for use alone or together with others (see section 8).

16 *Exception—constitutional corporations*

- 17 (2) This subsection applies at a particular time if, at that time,
18 paragraph 58(1)(c) applies to the person, or any of the persons,
19 who make the gaming machine available for use.

20 Note: Paragraph 58(1)(c) applies to a person who is, or has certain
21 connections with, a constitutional corporation.

22 *Exception—compliance with precommitment system and dynamic*
23 *warning requirements*

- 24 (3) This subsection applies at a particular time if, at that time, the
25 gaming machine, and any precommitment system for the gaming
26 machine, comply with all of the requirements of Parts 2 and 3 of
27 Chapter 2 (precommitment systems and dynamic warnings).

28 *Exception—areas of Australia not covered by approved*
29 *precommitment systems*

- 30 (4) This subsection applies at a particular time if, at that time:
31 (a) either:

Section 85

- 1 (i) a gaming machine is made available for use in
2 Australia; or
3 (ii) a gaming machine is capable of being made available
4 for use in Australia in accordance with the law of the
5 State or Territory in which the gaming machine is
6 located; and
7 (b) there is not an approved precommitment system for a State or
8 Territory:
9 (i) that could operate in relation to that gaming machine;
10 and
11 (ii) that is available to be purchased.

12 Note: For the definition of *Australia*, see section 5.

13 (5) Subsection (4) applies whether or not the gaming machine referred
14 to in that subsection is the one referred to in subsection (1), and
15 regardless of who makes, or would make, the gaming machine
16 available for use.

17 (6) For the purposes of paragraph (4)(b), an approved precommitment
18 system for a State or Territory could operate in relation to a gaming
19 machine even if the precommitment system is temporarily
20 unavailable as a result of an operational or technical issue.

21 Example: An example of an operational issue that causes a precommitment
22 system to be temporarily unavailable is a power outage.

23 *Exception—lack of knowledge of non-compliance*

- 24 (7) This subsection applies at a particular time if, at that time:
25 (a) either:
26 (i) the precommitment system for the gaming machine
27 referred to in subsection (1) fails to comply with one or
28 more requirements of Part 2 of Chapter 2; or
29 (ii) the gaming machine referred to in subsection (1) fails to
30 comply with one or more requirements of Part 3 of
31 Chapter 2; and
32 (b) the person who makes the gaming machine available for use
33 does not know, and could not reasonably be expected to
34 know, that the precommitment system or gaming machine
35 does not comply with those requirements.

Section 86

Exception—lack of fault in relation to non-compliance

- (8) This subsection applies at a particular time if, at that time:
- (a) either:
 - (i) the precommitment system for the gaming machine referred to in subsection (1) fails to comply with one or more requirements of Part 2 of Chapter 2; or
 - (ii) the gaming machine referred to in subsection (1) fails to comply with one or more requirements of Part 3 of Chapter 2; and
 - (b) the failure is a result of an operational or technical issue; and
 - (c) the failure is not the fault of any person who makes the gaming machine available for use; and
 - (d) remedying the failure is not within the control of any person who makes the gaming machine available for use.

86 Who is liable to pay the gaming machine regulation levy

- (1) An amount of gaming machine regulation levy is payable under section 85 for a gaming machine for a levy period by any person who is entitled to any of the gaming machine revenue from the gaming machine for the period.
- (2) For the purposes of subsection (1) of this section, in working out the total amount of outgoings for the purposes of paragraph (b) of the definition of ***gaming machine revenue***, disregard any amounts worked out under paragraph (c) of the definition of ***outgoings***.
- (3) If more than one person is entitled to any of the gaming machine revenue, all such persons are jointly liable to pay the amount of gaming machine regulation levy.

Note: For right of contribution if persons are jointly liable, see section 94.

Entitlement to gaming machine revenue

- (4) A person is liable to pay an amount of gaming machine regulation levy under subsection (1) even if the person's entitlement to some or all of the gaming machine revenue is not for the person's own use or benefit.

Section 86

1
2
3
4
5
6

Public bodies

- (5) An agency (however described) of the Commonwealth, a State or a Territory, or a body established for a public purpose by or under a law of the Commonwealth, a State or a Territory, is not liable to pay an amount of gaming machine regulation levy.

Chapter 6 Liability for, and collection and recovery of, supervisory and gaming machine regulation levies

Part 4 Collection and recovery of supervisory and gaming machine regulation levies

Division 1 Assessment of levies

Section 87

1 **Part 4—Collection and recovery of supervisory and**
2 **gaming machine regulation levies**

3 **Division 1—Assessment of levies**

4 **87 Regulator may make assessment of levies**

5 (1) At any time, the Regulator may make an assessment of levy for a
6 levy period.

7 (2) The Regulator may make an assessment under this section even if
8 he or she has already made an assessment for the levy period
9 concerned.

10 Note: For review of a decision to make an assessment, see sections 198 and
11 199.

12 **88 Request for assessment**

13 (1) A person may request the Regulator to make an assessment of levy
14 for a levy period.

15 (2) The request must be in an approved form.

16 (3) The Regulator must comply with the request if it is made within:

17 (a) 4 years after the end of the levy period; or

18 (b) such further period as the Regulator allows.

19 **89 Levy liabilities do not depend on assessment**

20 A person's liability to pay a levy, and the time by which an amount
21 of levy must be paid, do not depend on, and are not in any way
22 affected by, the making of an assessment under this Division.

23 Note: However, a notice of assessment can be used as evidence of liability
24 (see section 93).

25 **90 Regulator must give notice of the assessment**

26 The Regulator must give a person notice of an assessment as soon
27 as practicable after the assessment is made. However, failing to do
28 so does not affect the validity of the assessment.

1 **91 Amendment of assessment**

2 The Regulator may amend an assessment at any time. An amended
3 assessment is an assessment for all purposes of this Act.

4 Note: For review of a decision to amend an assessment, see sections 198 and
5 199.

6 **92 Later assessment prevails in case of inconsistency**

7 If there is an inconsistency between assessments that relate to the
8 same levy period, the later assessment prevails to the extent of the
9 inconsistency.

10 **93 Production of assessment is conclusive evidence**

11 The production of a notice of assessment under this Division is
12 conclusive evidence:

- 13 (a) that the assessment was properly made; and
14 (b) except in proceedings brought in accordance with section 198
15 or 199 on a review relating to the assessment—that the
16 amounts and particulars in the assessment are correct.
17

Section 94

1 **Division 2—Collection of levies**

2 **94 Right of contribution if persons are jointly liable**

- 3 (1) If 2 or more persons are jointly liable to pay an amount of levy,
4 they are each liable for the whole of the amount.
- 5 (2) If one of the persons has paid an amount of the liability, the person
6 may recover in a relevant court, as a debt, from another of those
7 persons:
- 8 (a) an amount equal to so much of the amount paid; and
9 (b) an amount equal to so much of the costs of recovery under
10 this section;
11 as the court considers just and equitable.

12 **95 Returns**

- 13 (1) A person must (subject to subsection (3)) lodge a return for a levy
14 period if:
- 15 (a) the person is liable to pay an amount of levy in relation to a
16 gaming machine for the levy period; or
17 (b) the person would have been liable to pay an amount of
18 gaming machine regulation levy in relation to the gaming
19 machine for the levy period but for the fact that the gaming
20 machine revenue from the gaming machine was nil or a
21 negative amount.
- 22 Note: A person who fails to lodge a return might commit an offence under
23 section 101.
- 24 (2) The return must:
- 25 (a) be lodged with the Regulator; and
26 (b) be lodged before the end of 21 days after the end of the levy
27 period; and
28 (c) be in an approved form; and
29 (d) contain the information required by the form.
- 30 (3) A person is not required to lodge a return under subsection (1) in
31 relation to the supervisory levy if no regulations have been made
32 under the *National Gambling Reform (Related Matters) Act (No. 1)*

1 2012 prescribing a method for working out the amount of
2 supervisory levy for a gaming machine for a levy period.

3 **96 When levy due for payment**

4 Levy payable by a person is due and payable 21 days after the end
5 of the levy period.

6 **97 Late payment penalty**

7 (1) If any levy payable by a person remains unpaid at the start of a
8 month after the levy became due for payment, the person is liable
9 to pay the Commonwealth, for that month, a penalty worked out
10 using the following formula:

11 Amount of the levy remaining
 unpaid at the start of the month $\times \frac{0.2}{12}$

12 (2) Late payment penalty for a month is due and payable at the end of
13 the month.

14 *Specifying a later day for payment of late payment penalty*

15 (3) However, the Regulator may, by written notice given to the person,
16 specify a later day as the day on which the late payment penalty is
17 due and payable.

18 Note: For review of a decision not to specify a later day, see sections 198
19 and 199.

20 (4) The Regulator may specify a later day under subsection (3) before,
21 on or after the day on which late payment penalty would otherwise
22 be due and payable.

23 (5) A notice under subsection (3) has effect, and is taken always to
24 have had effect, according to its terms.

25 **98 Payment of levy and late payment penalty**

26 Levy and late payment penalty are payable to the Regulator on
27 behalf of the Commonwealth.

Chapter 6 Liability for, and collection and recovery of, supervisory and gaming machine regulation levies

Part 4 Collection and recovery of supervisory and gaming machine regulation levies

Division 2 Collection of levies

Section 99

1 **99 Recovery of levy and late payment penalty**

- 2 (1) The following amounts may be recovered by the Commonwealth
3 from a person as debts due to the Commonwealth:
4 (a) levy that is due and payable by the person;
5 (b) late payment penalty that is due and payable by the person.
- 6 (2) The Regulator may, on behalf of the Commonwealth, recover a
7 debt of a kind mentioned in subsection (1) in a relevant court.

8 **100 Refunds of overpayments of levy**

- 9 (1) The Regulator may credit an amount of levy or late payment
10 penalty that has been overpaid by a person against a liability of the
11 person to pay another such amount under this Act.
- 12 (2) The Regulator must refund the amount to the person to the extent
13 that it is not so credited.
14

1 **Division 3—Miscellaneous**

2 **101 Offence for failure to lodge a return**

3 (1) A person commits an offence if:

- 4 (a) the person is required to lodge a return under section 95; and
5 (b) the person fails to lodge a return as required by that section.

6 Penalty: 50 penalty units.

7 Note: A person who provides false or misleading information in a return
8 may commit an offence under section 137.2 of the *Criminal Code*.

9 (2) Subsection (1) does not apply if the person has a reasonable
10 excuse.

11 Note: A defendant bears an evidential burden in relation to the matter in
12 subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

13 (3) The offence created by subsection (1) is an offence of strict
14 liability.

15 Note: For strict liability, see section 6.1 of the *Criminal Code*.

16 **102 Regulations may provide in relation to assessment, collection**
17 **and recovery**

18 The regulations may provide in relation to the assessment,
19 collection and recovery of the supervisory levy and the gaming
20 machine regulation levy.
21

1 **Chapter 7—Monitoring and investigation**

2 **Part 1—Guide to this Chapter**
3

4 **103 Guide to this Chapter**

5 This Chapter provides for the monitoring and investigation of
6 compliance with this Act.

7 The Regulator monitors and investigates compliance. Part 2
8 establishes the Regulator and defines his or her functions and
9 powers. The Regulator appoints authorised persons under Part 3,
10 who exercise the monitoring and investigation powers in this
11 Chapter. The persons who may be appointed as authorised persons
12 are APS employees, or employees of agencies of a State or
13 Territory.

14 Authorised persons have powers under Part 4 to enter public areas
15 of gaming machine premises and observe practices relating to
16 gaming machines, precommitment systems and automatic teller
17 machines.

18 An authorised person may enter premises and exercise monitoring
19 powers under Part 5, to monitor compliance with this Act. Entry
20 must be with the occupier's consent or under a monitoring warrant.

21 An authorised person may enter premises and exercise
22 investigation powers under Part 6, if the person has reasonable
23 grounds for suspecting that there is evidential material on the
24 premises that is connected with a contravention of this Act. Entry
25 must be with the occupier's consent or under an investigation
26 warrant. Evidential material may be seized under a warrant.

27 Rules relevant to both monitoring and investigation, such as the
28 obligations and other powers of authorised persons when entering
29 premises, and the rights and responsibilities of occupiers, are in
30 Part 7.

Section 103

1
2
3
4

The Regulator can require a person to produce information or documents under Part 8. Certain persons may also be required to keep records of specified information relevant to this Act.

Section 104

1 **Part 2—Regulator**
2

3 **104 The Regulator**

4 The *Regulator* is the Secretary of the Department.

5 **105 Functions of the Regulator**

6 The Regulator has the following functions:

- 7 (a) to administer this Act;
8 (b) to monitor, promote, investigate and enforce compliance with
9 this Act;
10 (c) to collect, analyse, interpret and disseminate information
11 about the operation of this Act;
12 (d) to monitor and evaluate the operation of this Act;
13 (e) to provide information and advice to:
14 (i) the Minister; and
15 (ii) the States and Territories; and
16 (iii) the public;
17 about the operation of this Act;
18 (f) to undertake or commission research in relation to the
19 operation of this Act;
20 (g) to cooperate with the States and Territories, and other
21 relevant persons, in administering this Act;
22 (h) such other functions as are conferred on the Regulator by this
23 Act or any other law of the Commonwealth.

24 **106 Powers of the Regulator**

25 The Regulator has power to do all things necessary or convenient
26 to be done in connection with the performance of the Regulator's
27 functions.

1 **107 Regulator may charge for services**

- 2 (1) The Regulator may, by legislative instrument, specify fees for
3 services provided by, or on behalf of, the Regulator in the
4 performance of his or her functions.
- 5 (2) A fee specified under subsection (1) must not be such as to amount
6 to taxation.

7 **108 Arrangements with other agencies**

8 The Regulator may make an arrangement with an agency of the
9 Commonwealth, or of a State or a Territory, for the services of
10 officers or employees of the agency to be made available to assist
11 the Regulator in performing his or her functions or duties, or
12 exercising his or her powers.

13 **109 Consultants**

14 The Regulator may, on behalf of the Commonwealth, engage
15 consultants to assist in the performance of the Regulator's
16 functions.

17 **110 Minister may give directions to the Regulator**

- 18 (1) The Minister may, by legislative instrument, give a direction to the
19 Regulator in relation to the performance of the Regulator's
20 functions and the exercise of the Regulator's powers.
- 21 (2) However, the Minister must not give a direction in relation to a
22 particular case.
- 23 (3) The Regulator must comply with a direction given under
24 subsection (1).

25 **111 Annual report**

- 26 (1) The Regulator must prepare and give to the Minister a report on the
27 operation of this Act during each financial year.
- 28 (2) The Regulator must do so as soon as practicable after the end of
29 each financial year.

Section 111

- 1 (3) The report must be included in the Department’s annual report for
2 that financial year.
- 3 (4) Without limiting subsection (1), a report for a financial year must
4 include information in relation to the following:
- 5 (a) any offence against this Act of which a person was convicted
6 during the year, and the penalty imposed on the person;
- 7 (b) any civil penalty provision in relation to which a civil penalty
8 order was made against a person during the year, and the
9 amount of any penalty that the person was ordered to pay to
10 the Commonwealth;
- 11 (c) any action taken under Chapter 8 (enforcement) in order to
12 enforce this Act;
- 13 (d) any other matter specified by the regulations.
- 14

1 **Part 3—Authorised persons**
2

3 **112 Appointment of authorised persons**

4 (1) The Regulator may, in writing, appoint one or more of the
5 following persons as an authorised person for the purposes of this
6 Act:

7 (a) an APS employee;

8 (b) an employee of an agency (however described) of a State or
9 Territory.

10 Note: For the definition of *APS employee*, see section 2B of the *Acts*
11 *Interpretation Act 1901*.

12 *Prerequisites to appointment*

13 (2) The Regulator must not appoint a person as an authorised person
14 unless the Regulator is satisfied that:

15 (a) the person has suitable training or experience to properly
16 exercise the powers of an authorised person; and

17 (b) an assessment of the person's criminal history, and of other
18 matters relating to security, has been conducted in relation to
19 the person.

20 (3) The Regulator must not appoint an officer or employee of an
21 agency as an authorised person without the agreement of:

22 (a) if the agency is an agency of the Commonwealth—the
23 agency; and

24 (b) if the agency is an agency of a State or Territory—the State
25 or Territory.

26 *Period of appointment*

27 (4) An authorised person holds office for the period specified in the
28 instrument of appointment. The period must not exceed 4 years.

29 *Authorised person to comply with directions*

30 (5) An authorised person must, in exercising powers as such, comply
31 with any directions of the Regulator.

Section 113

- 1 (6) If a direction is given under subsection (5) in writing, the direction
2 is not a legislative instrument.

3 **113 The Regulator is an authorised person**

4 The Regulator is an authorised person by force of this section.

5 **114 Identity cards**

- 6 (1) The Regulator must issue an identity card to an authorised person.
7 (2) The Minister must issue an identity card to the Regulator.

8 *Form of identity card*

- 9 (3) An identity card must:
10 (a) be in the form prescribed by the regulations; and
11 (b) contain a recent photograph of the authorised person.

12 *Authorised person must carry card*

- 13 (4) An authorised person must carry his or her identity card at all times
14 when exercising powers as an authorised person.

15 **115 Offence for not returning identity card**

- 16 (1) A person commits an offence if:
17 (a) the person has been issued with an identity card; and
18 (b) the person ceases to be an authorised person; and
19 (c) the person does not return the identity card to the person who
20 issued the identity card within 14 days after ceasing to be an
21 authorised person.

22 Penalty: 1 penalty unit.

- 23 (2) An offence against subsection (1) is an offence of strict liability.

24 Note: For strict liability, see section 6.1 of the *Criminal Code*.

Section 115

1

Defence: card lost or destroyed

2

(3) Subsection (1) does not apply if the identity card was lost or destroyed.

3

4

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

5

Section 116

1 **Part 4—Inspecting public areas of gaming machine**
2 **premises**
3

4 **116 Inspection powers in public areas of gaming machine premises**

- 5 (1) An authorised person may enter a public area of gaming machine
6 premises when the premises are open to the public and exercise the
7 following powers for a purpose referred to in subsection (2):
8 (a) the power to observe the operation of, and practices relating
9 to the operation of, regulated devices;
10 (b) the power to inspect or collect written information,
11 advertising or any other document that is available, or made
12 available, to the public in relation to regulated devices;
13 (c) the power to discuss regulated devices with any person.
- 14 (2) An authorised person may exercise a power under subsection (1)
15 only for one or more of the following purposes:
16 (a) determining whether a provision of this Act has been, or is
17 being, complied with;
18 (b) determining whether information given in compliance or
19 purported compliance with a provision of this Act is correct;
20 (c) investigating a possible contravention of a related provision.
- 21 (3) To avoid doubt, if a person is required to be a member, or
22 otherwise register, to access an area of gaming machine premises,
23 that area is not a public area of those premises.
- 24 (4) Subsection (1) does not affect any right of the occupier of the
25 premises to refuse to allow an authorised person to enter, or remain
26 on, the premises.
- 27 (5) Subsection (1) does not limit the powers of an authorised person
28 under Part 5, 6, 7 or 8 of this Chapter or any other power of a
29 person to enter a public area of gaming machine premises.

30 *Definition*

- 31 (6) In this Act:

- 1 ***regulated device*** means:
2 (a) a gaming machine; or
3 (b) a precommitment system; or
4 (c) an automatic teller machine.
5

1 **Part 5—Monitoring**

2 **Division 1—Monitoring powers**

3 **117 Authorised person may enter premises by consent or under a**
4 **warrant**

- 5 (1) An authorised person may enter any premises and exercise the
6 monitoring powers for either or both of the following purposes:
7 (a) determining whether a provision of this Act has been, or is
8 being, complied with;
9 (b) determining whether information given in compliance or
10 purported compliance with a provision of this Act is correct.

11 Note: The *monitoring powers* are set out in sections 118, 119 and 122.

- 12 (2) However, an authorised person is not authorised to enter the
13 premises unless:
14 (a) the occupier of the premises has consented to the entry and
15 the authorised person has shown his or her identity card if
16 required by the occupier; or
17 (b) the entry is made under a monitoring warrant.

18 Note 1: If entry to the premises is with the occupier's consent, the authorised
19 person must leave the premises if the consent ceases to have effect
20 (see section 144).

21 Note 2: See Part 7 for general provisions relating to monitoring, such as:
22 (a) obligations of authorised persons in entering premises; and
23 (b) other powers of authorised persons; and
24 (c) an occupier's rights and responsibilities on entry.

25 **118 Monitoring powers of authorised persons**

26 The following are the *monitoring powers* that an authorised person
27 may exercise in relation to premises under section 117:

- 28 (a) the power to search the premises and any thing on the
29 premises;
30 (b) the power to examine or observe any activity conducted on
31 the premises;

- 1 (c) the power to inspect, examine, take measurements of or
2 conduct tests on any thing on the premises;
3 (d) the power to make any still or moving image or any
4 recording of the premises or any thing on the premises;
5 (e) the power to inspect any document on the premises;
6 (f) the power to take extracts from, or make copies of, any such
7 document;
8 (g) the power to take onto the premises such equipment and
9 materials as the authorised person requires for the purpose of
10 exercising powers in relation to the premises;
11 (h) the powers set out in subsections 119(1) and (3) and 122(2).

12 Note: An authorised person may also open gaming machines (including
13 sealed components of machines) on premises (see section 149).

14 **119 Operating electronic equipment**

- 15 (1) The *monitoring powers* include the power to:
16 (a) operate electronic equipment on the premises (including
17 operating the equipment to access data not held on the
18 premises); and
19 (b) use a disk, tape or other storage device that:
20 (i) is on the premises; and
21 (ii) can be used with the equipment or is associated with it.
- 22 (2) The *monitoring powers* include the powers mentioned in
23 subsection (3) if information (*relevant data*) is found in the
24 exercise of the power under subsection (1) that is relevant to
25 determining whether:
26 (a) a provision of this Act has been, or is being, complied with;
27 or
28 (b) information given in compliance or purported compliance
29 with a provision of this Act is correct.
- 30 (3) The powers are as follows:
31 (a) the power to operate electronic equipment on the premises to
32 put the relevant data in documentary form and remove the
33 documents so produced from the premises;

Section 120

1 (b) the power to operate electronic equipment on the premises to
2 transfer the relevant data to a disk, tape or other storage
3 device that:
4 (i) is brought to the premises for the exercise of the power;
5 or
6 (ii) is on the premises and the use of which for that purpose
7 has been agreed in writing by the occupier of the
8 premises;
9 and remove the disk, tape or other storage device from the
10 premises.

11 (4) An authorised person may operate electronic equipment as
12 mentioned in subsection (1) or (3) only if the authorised person
13 believes on reasonable grounds that the operation of the equipment
14 can be carried out without damage to the equipment.

15 Note: For compensation for damage to electronic equipment, see
16 section 155.

17 **120 Accessing data held on certain premises—notification to**
18 **occupier**

19 (1) If:

20 (a) an exercise of power under subsection 119(1) involves
21 operating electronic equipment on premises to access data
22 held on other premises; and

23 (b) it is practicable to notify the occupier of the premises on
24 which the data is held that the data has been accessed;

25 the authorised person must:

26 (c) do so as soon as practicable; and

27 (d) if the authorised person has exercised, or intends to exercise,
28 powers under subsection 119(3) to allow for continued access
29 to that data—include that information in the notification.

30 (2) A notification under subsection (1) must include sufficient
31 information to allow the occupier of the premises on which the
32 data is held to contact the authorised person.

1 **121 Expert assistance to operate electronic equipment**

- 2 (1) This section applies to premises to which a monitoring warrant
3 relates.

4 *Securing equipment*

- 5 (2) An authorised person may secure any electronic equipment that is
6 on the premises if the authorised person believes on reasonable
7 grounds that:

- 8 (a) there is information (*relevant data*) on, or accessible from,
9 the premises relevant to determining whether:
10 (i) a provision of this Act has been, or is being, complied
11 with; or
12 (ii) information given in compliance or purported
13 compliance with a provision of this Act is correct; and
14 (b) the relevant data may be accessible by operating the
15 equipment; and
16 (c) expert assistance is required to operate the equipment; and
17 (d) the relevant data may be destroyed, altered or otherwise
18 interfered with, if the authorised person does not take action
19 under this subsection.

20 The equipment may be secured by locking it up, placing a guard or
21 any other means.

- 22 (3) The authorised person must give notice to the occupier of the
23 premises, or another person who apparently represents the
24 occupier, of:
25 (a) the authorised person's intention to secure the equipment;
26 and
27 (b) the fact that the equipment may be secured for up to 24
28 hours.

29 *Period equipment may be secured*

- 30 (4) The equipment may be secured until the earlier of the following
31 happens:
32 (a) the 24-hour period ends;
33 (b) the equipment has been operated by the expert.

Section 122

1 Note: For compensation for damage to electronic equipment, see
2 section 155.

3 *Extensions*

4 (5) The authorised person may apply to an issuing officer for an
5 extension of the 24-hour period if the authorised person believes on
6 reasonable grounds that the equipment needs to be secured for
7 longer than that period.

8 (6) Before making the application, the authorised person must give
9 notice to the occupier of the premises, or another person who
10 apparently represents the occupier, of his or her intention to apply
11 for an extension. The occupier or other person is entitled to be
12 heard in relation to that application.

13 (7) The provisions of this Part relating to the issue of monitoring
14 warrants apply, with such modifications as are necessary, to the
15 issue of an extension.

16 (8) The 24-hour period may be extended more than once.

17 **122 Securing evidence of the contravention of a related provision**

18 (1) This section applies if an authorised person enters premises under a
19 monitoring warrant for either or both of the following purposes:

- 20 (a) determining whether a provision of this Act has been, or is
21 being, complied with;
- 22 (b) determining whether information given in compliance or
23 purported compliance with a provision of this Act is correct.

24 *Securing evidence for a period*

25 (2) The **monitoring powers** include the power to secure a thing for a
26 period not exceeding 24 hours if:

- 27 (a) the thing is found during the exercise of monitoring powers
28 on the premises; and
- 29 (b) an authorised person believes on reasonable grounds that:
30 (i) a related provision has been contravened with respect to
31 the thing; or

- 1 (ii) the thing affords evidence of the contravention of a
2 related provision; or
3 (iii) the thing is intended to be used for the purpose of
4 contravening a related provision; and
5 (c) the authorised person believes on reasonable grounds that:
6 (i) it is necessary to secure the thing in order to prevent it
7 from being concealed, lost or destroyed before a warrant
8 to seize the thing is obtained; and
9 (ii) it is necessary to secure the thing without a warrant
10 because the circumstances are serious and urgent.

11 *Extensions*

- 12 (3) The authorised person may apply to an issuing officer for an
13 extension of the 24-hour period if the authorised person believes on
14 reasonable grounds that the thing needs to be secured for longer
15 than that period.
- 16 (4) Before making the application, the authorised person must give
17 notice to the occupier of the premises, or another person who
18 apparently represents the occupier, of his or her intention to apply
19 for an extension. The occupier or other person is entitled to be
20 heard in relation to that application.
- 21 (5) The provisions of this Part relating to the issue of monitoring
22 warrants apply, with such modifications as are necessary, to the
23 issue of an extension.
- 24 (6) The 24-hour period may be extended more than once.
25

1 **Division 2—Persons assisting authorised persons**

2 **123 Persons assisting authorised persons**

3 *Authorised persons may be assisted by other persons*

4 (1) An authorised person may be assisted by other persons in
5 exercising powers or performing functions or duties under this Part
6 and Part 7, if that assistance is necessary and reasonable. A person
7 giving such assistance is a *person assisting* the authorised person.

8 *Powers, functions and duties of a person assisting the authorised*
9 *person*

- 10 (2) A person assisting the authorised person:
- 11 (a) may enter the premises; and
- 12 (b) may exercise powers and perform functions and duties under
13 this Part and Part 7 for the purposes of assisting the
14 authorised person to determine whether:
- 15 (i) a provision of this Act has been, or is being, complied
16 with; or
- 17 (ii) information given in compliance or purported
18 compliance with a provision of this Act is correct; and
- 19 (c) must do so in accordance with a direction given to the person
20 assisting by the authorised person.
- 21 (3) A power exercised by a person assisting the authorised person as
22 mentioned in subsection (2) is taken for all purposes to have been
23 exercised by the authorised person.
- 24 (4) A function or duty performed by a person assisting the authorised
25 person as mentioned in subsection (2) is taken for all purposes to
26 have been performed by the authorised person.
- 27 (5) If a direction is given under paragraph (2)(c) in writing, the
28 direction is not a legislative instrument.
29

1 **Division 3—Monitoring warrants**

2 **124 Monitoring warrants**

3 *Application for warrant*

- 4 (1) An authorised person may apply to an issuing officer for a warrant
5 under this section in relation to premises.

6 *Issue of warrant*

- 7 (2) The issuing officer may issue the warrant if the issuing officer is
8 satisfied, by information on oath or affirmation, that it is
9 reasonably necessary that one or more authorised persons should
10 have access to the premises for the purpose of determining
11 whether:
12 (a) a provision of this Act has been, or is being, complied with;
13 or
14 (b) information given in compliance or purported compliance
15 with a provision of this Act is correct.
- 16 (3) However, the issuing officer must not issue the warrant unless the
17 authorised person or some other person has given to the issuing
18 officer, either orally or by affidavit, such further information (if
19 any) as the issuing officer requires concerning the grounds on
20 which the issue of the warrant is being sought.

21 *Content of warrant*

- 22 (4) The warrant must:
23 (a) describe the premises to which the warrant relates; and
24 (b) state that the warrant is issued under this section; and
25 (c) state the purpose for which the warrant is issued; and
26 (d) authorise, on any one or more occasions while the warrant
27 remains in force, one or more authorised persons (whether or
28 not named in the warrant):
29 (i) to enter the premises; and
30 (ii) to exercise the powers set out in this Part and Part 7 in
31 relation to the premises; and

Chapter 7 Monitoring and investigation

Part 5 Monitoring

Division 3 Monitoring warrants

Section 124

- 1 (e) state whether entry is authorised to be made at any time of
2 the day or during specified hours of the day; and
3 (f) specify the day (not more than 6 months after the issue of the
4 warrant) on which the warrant ceases to be in force.
5

1 **Part 6—Investigation**

2 **Division 1—Investigation powers**

3 **125 Authorised person may enter premises by consent or under a**
4 **warrant**

- 5 (1) If an authorised person has reasonable grounds for suspecting that
6 there may be evidential material on any premises, the authorised
7 person may:
8 (a) enter the premises; and
9 (b) exercise the investigation powers.

10 Note: The *investigation powers* are set out in sections 126, 127 and 130.

- 11 (2) However, an authorised person is not authorised to enter the
12 premises unless:
13 (a) the occupier of the premises has consented to the entry and
14 the authorised person has shown his or her identity card if
15 required by the occupier; or
16 (b) the entry is made under an investigation warrant.

17 Note 1: If entry to the premises is with the occupier's consent, the authorised
18 person must leave the premises if the consent ceases to have effect
19 (see section 144).

20 Note 2: See Part 7 for general provisions relating to investigation, such as:
21 (a) obligations of authorised persons in entering premises; and
22 (b) other powers of authorised persons; and
23 (c) an occupier's rights and responsibilities on entry.

24 **126 Investigation powers of authorised persons**

25 The following are the *investigation powers* that an authorised
26 person may exercise in relation to premises under section 125:

- 27 (a) if entry to the premises is with the occupier's consent—the
28 power to search the premises and any thing on the premises
29 for the evidential material the authorised person has
30 reasonable grounds for suspecting may be on the premises;
31 (b) if entry to the premises is under an investigation warrant:

Section 127

- 1 (i) the power to search the premises and any thing on the
2 premises for the kind of evidential material specified in
3 the warrant; and
4 (ii) the power to seize evidential material of that kind if the
5 authorised person finds it on the premises;
6 (c) the power to inspect, examine, take measurements of or
7 conduct tests on evidential material referred to in
8 paragraph (a) or (b);
9 (d) the power to make any still or moving image or any
10 recording of the premises or evidential material referred to in
11 paragraph (a) or (b);
12 (e) the power to take onto the premises such equipment and
13 materials as the authorised person requires for the purpose of
14 exercising powers in relation to the premises;
15 (f) the powers set out in subsections 127(1) and (2) and
16 section 130.

17 Note: An authorised person may also open gaming machines (including
18 sealed components of machines) on premises (see section 149).

19 **127 Operating electronic equipment**

- 20 (1) The *investigation powers* include the power to:
21 (a) operate electronic equipment on the premises (including
22 operating the equipment to access data not held on the
23 premises); and
24 (b) use a disk, tape or other storage device that:
25 (i) is on the premises; and
26 (ii) can be used with the equipment or is associated with it;
27 if an authorised person has reasonable grounds for suspecting that
28 the electronic equipment, disk, tape or other storage device is or
29 contains evidential material.
30 (2) The *investigation powers* include the following powers in relation
31 to evidential material found in the exercise of the power under
32 subsection (1):
33 (a) if entry to the premises is under an investigation warrant—
34 the power to seize the equipment and the disk, tape or other
35 storage device referred to in that subsection;

Section 128

- 1 (b) the power to operate electronic equipment on the premises to
2 put the evidential material in documentary form and remove
3 the documents so produced from the premises;
- 4 (c) the power to operate electronic equipment on the premises to
5 transfer the evidential material to a disk, tape or other storage
6 device that:
7 (i) is brought to the premises for the exercise of the power;
8 or
9 (ii) is on the premises and the use of which for that purpose
10 has been agreed in writing by the occupier of the
11 premises;
12 and remove the disk, tape or other storage device from the
13 premises.
- 14 (3) An authorised person may operate electronic equipment as
15 mentioned in subsection (1) or (2) only if the authorised person
16 believes on reasonable grounds that the operation of the equipment
17 can be carried out without damage to the equipment.
- 18 Note: For compensation for damage to electronic equipment, see
19 section 155.
- 20 (4) An authorised person may seize equipment or a disk, tape or other
21 storage device as mentioned in paragraph (2)(a) only if:
22 (a) it is not practicable to put the evidential material in
23 documentary form as mentioned in paragraph (2)(b) or to
24 transfer the evidential material as mentioned in
25 paragraph (2)(c); or
26 (b) possession of the equipment or the disk, tape or other storage
27 device by the occupier could constitute an offence against a
28 law of the Commonwealth.

29 **128 Accessing data held on certain premises—notification to**
30 **occupier**

- 31 (1) If:
32 (a) an exercise of power under subsection 127(1) involves
33 operating electronic equipment on premises to access data
34 held on other premises; and

Section 129

- 1 (b) it is practicable to notify the occupier of the premises on
2 which the data is held that the data has been accessed;
3 the authorised person must:
4 (c) do so as soon as practicable; and
5 (d) if the authorised person has exercised, or intends to exercise,
6 powers under subsection 127(2) to allow for continued access
7 to that data—include that information in the notification.
- 8 (2) A notification under subsection (1) must include sufficient
9 information to allow the occupier of the premises on which the
10 data is held to contact the authorised person.

11 **129 Expert assistance to operate electronic equipment**

- 12 (1) This section applies if an authorised person enters premises under
13 an investigation warrant to search for evidential material.

14 *Securing equipment*

- 15 (2) The authorised person may secure any electronic equipment that is
16 on the premises if the authorised person believes on reasonable
17 grounds that:
18 (a) there is evidential material of the kind specified in the
19 warrant on, or accessible from, the premises; and
20 (b) the evidential material may be accessible by operating the
21 electronic equipment; and
22 (c) expert assistance is required to operate the equipment; and
23 (d) the evidential material may be destroyed, altered or otherwise
24 interfered with, if the authorised person does not take action
25 under this subsection.
- 26 The equipment may be secured by locking it up, placing a guard or
27 any other means.
- 28 (3) The authorised person must give notice to the occupier of the
29 premises, or another person who apparently represents the
30 occupier, of:
31 (a) the authorised person's intention to secure the equipment;
32 and

1 (b) the fact that the equipment may be secured for up to 24
2 hours.

3 *Period equipment may be secured*

4 (4) The equipment may be secured until the earlier of the following
5 happens:

6 (a) the 24-hour period ends;

7 (b) the equipment has been operated by the expert.

8 Note: For compensation for damage to electronic equipment, see
9 section 155.

10 *Extensions*

11 (5) The authorised person may apply to an issuing officer for an
12 extension of the 24-hour period, if the authorised person believes
13 on reasonable grounds that the equipment needs to be secured for
14 longer than that period.

15 (6) Before making the application, the authorised person must give
16 notice to the occupier of the premises, or another person who
17 apparently represents the occupier, of the authorised person's
18 intention to apply for an extension. The occupier or other person is
19 entitled to be heard in relation to that application.

20 (7) The provisions of this Part relating to the issue of investigation
21 warrants apply, with such modifications as are necessary, to the
22 issue of an extension.

23 (8) The 24-hour period may be extended more than once.

24 **130 Seizing evidence of contraventions of related provisions**

25 (1) This section applies if an authorised person enters premises under
26 an investigation warrant to search for evidential material.

27 (2) The *investigation powers* include seizing a thing that is not
28 evidential material of the kind specified in the warrant if:

29 (a) in the course of searching for the kind of evidential material
30 specified in the warrant, the authorised person finds the
31 thing; and

Chapter 7 Monitoring and investigation

Part 6 Investigation

Division 1 Investigation powers

Section 130

- 1 (b) the authorised person believes on reasonable grounds that:
- 2 (i) a related provision has been contravened with respect to
- 3 the thing; or
- 4 (ii) the thing is evidence of the contravention of a related
- 5 provision; or
- 6 (iii) the thing is intended to be used for the purpose of
- 7 contravening a related provision; and
- 8 (c) the authorised person believes on reasonable grounds that it
- 9 is necessary to seize the thing in order to prevent its
- 10 concealment, loss or destruction.
- 11

1 **Division 2—Persons assisting authorised persons**

2 **131 Persons assisting authorised persons**

3 *Authorised persons may be assisted by other persons*

- 4 (1) An authorised person may be assisted by other persons in
5 exercising powers or performing functions or duties under this Part
6 and Part 7, if that assistance is necessary and reasonable. A person
7 giving such assistance is a *person assisting* the authorised person.

8 *Powers, functions and duties of a person assisting the authorised*
9 *person*

- 10 (2) A person assisting the authorised person:
11 (a) may enter the premises; and
12 (b) may exercise powers and perform functions and duties under
13 this Part and Part 7 in relation to evidential material; and
14 (c) must do so in accordance with a direction given to the person
15 assisting by the authorised person.
- 16 (3) A power exercised by a person assisting the authorised person as
17 mentioned in subsection (2) is taken for all purposes to have been
18 exercised by the authorised person.
- 19 (4) A function or duty performed by a person assisting the authorised
20 person as mentioned in subsection (2) is taken for all purposes to
21 have been performed by the authorised person.
- 22 (5) If a direction is given under paragraph (2)(c) in writing, the
23 direction is not a legislative instrument.
24

1 **Division 3—General provisions relating to seizure**

2 **132 Copies of seized things to be provided**

- 3 (1) This section applies if:
- 4 (a) an investigation warrant is being executed in relation to
- 5 premises; and
- 6 (b) an authorised person seizes one or more of the following
- 7 from the premises under this Part:
- 8 (i) a document, film, computer file or other thing that can
- 9 be readily copied;
- 10 (ii) a storage device, the information in which can be
- 11 readily copied.
- 12 (2) The occupier of the premises, or another person who apparently
- 13 represents the occupier and who is present when the warrant is
- 14 executed, may request the authorised person to give a copy of the
- 15 thing or the information to the occupier or other person.
- 16 (3) The authorised person must comply with the request as soon as
- 17 practicable after the seizure.
- 18 (4) However, the authorised person is not required to comply with the
- 19 request if possession of the document, film, computer file, thing or
- 20 information by the occupier or other person could constitute an
- 21 offence against a law of the Commonwealth.

22 **133 Receipts for seized things**

- 23 (1) The authorised person must provide a receipt for a thing that is
- 24 seized under this Part.
- 25 (2) One receipt may cover 2 or more things seized.

26 **134 Return of seized things**

- 27 (1) The Regulator must take reasonable steps to return a thing seized
- 28 under this Part when the earliest of the following happens:
- 29 (a) the reason for the thing's seizure no longer exists;
- 30 (b) it is decided that the thing is not to be used in evidence;

1 (c) the period of 60 days after the thing's seizure ends.

2 Note: See subsections (2) and (3) for exceptions to this rule.

3 *Exceptions*

4 (2) Subsection (1):

5 (a) is subject to any contrary order of a court; and

6 (b) does not apply if the thing:

7 (i) is forfeited or forfeitable to the Commonwealth; or

8 (ii) is the subject of a dispute as to ownership.

9 (3) The Regulator is not required to take reasonable steps to return a
10 thing because of paragraph (1)(c) if:

11 (a) proceedings in respect of which the thing may afford
12 evidence were instituted before the end of the 60 days and
13 have not been completed (including an appeal to a court in
14 relation to those proceedings); or

15 (b) the thing may continue to be retained because of an order
16 under section 135; or

17 (c) the Commonwealth or the Regulator is otherwise authorised
18 (by a law, or an order of a court, of the Commonwealth or of
19 a State or Territory) to retain, destroy, dispose of or
20 otherwise deal with the thing.

21 *Return of thing*

22 (4) A thing that is required to be returned under this section must be
23 returned to the person from whom it was seized (or to the owner if
24 that person is not entitled to possess it).

25 **135 Issuing officer may permit a seized thing to be retained**

26 (1) The Regulator may apply to an issuing officer for an order
27 permitting the retention of a thing seized under this Part for a
28 further period if proceedings in respect of which the thing may
29 afford evidence have not commenced before the end of:

30 (a) 60 days after the seizure; or

31 (b) a period previously specified in an order of an issuing officer
32 under this section.

Section 136

- 1 (2) Before making the application, the Regulator must:
2 (a) take reasonable steps to discover who has an interest in the
3 retention of the thing; and
4 (b) if it is practicable to do so, notify each person whom the
5 Regulator believes to have such an interest of the proposed
6 application.

7 *Order to retain thing*

- 8 (3) The issuing officer may order that the thing may continue to be
9 retained for a period specified in the order if the issuing officer is
10 satisfied that it is necessary for the thing to continue to be retained:
11 (a) for the purposes of an investigation as to whether a related
12 provision has been contravened; or
13 (b) to enable evidence of a contravention mentioned in
14 paragraph (a) to be secured for the purposes of a prosecution
15 or an action to obtain a civil penalty order.
- 16 (4) The period specified must not exceed 3 years.

17 **136 Disposal of seized things**

- 18 (1) The Regulator may dispose of a thing seized under this Part if:
19 (a) the Regulator has taken reasonable steps to return the thing to
20 a person; and
21 (b) either:
22 (i) the Regulator has been unable to locate the person; or
23 (ii) the person has refused to take possession of the thing.
- 24 (2) The Regulator may dispose of the thing in such manner as the
25 Regulator thinks appropriate.

26 **137 Compensation for acquisition of property**

- 27 (1) If the operation of section 136 would result in an acquisition of
28 property from a person otherwise than on just terms, the
29 Commonwealth is liable to pay a reasonable amount of
30 compensation to the person.

Section 137

1 (2) If the Commonwealth and the person do not agree on the amount
2 of the compensation, the person may institute proceedings in a
3 relevant court for the recovery from the Commonwealth of such
4 reasonable amount of compensation as the court determines.

5 (3) In this Act:

6 *acquisition of property* has the same meaning as in paragraph
7 51(xxxi) of the Constitution.

8 *just terms* has the same meaning as in paragraph 51(xxxi) of the
9 Constitution.
10

1 **Division 4—Investigation warrants**

2 **138 Investigation warrants**

3 *Application for warrant*

- 4 (1) An authorised person may apply to an issuing officer for a warrant
5 under this section in relation to premises.

6 *Issue of warrant*

- 7 (2) The issuing officer may issue the warrant if the issuing officer is
8 satisfied, by information on oath or affirmation, that there are
9 reasonable grounds for suspecting that there is, or there may be
10 within the next 72 hours, evidential material on the premises.
- 11 (3) However, the issuing officer must not issue the warrant unless the
12 authorised person or some other person has given to the issuing
13 officer, either orally or by affidavit, such further information (if
14 any) as the issuing officer requires concerning the grounds on
15 which the issue of the warrant is being sought.

16 *Content of warrant*

- 17 (4) The warrant must:
- 18 (a) state the offence or offences, or civil penalty provision or
19 civil penalty provisions, to which the warrant relates; and
- 20 (b) describe the premises to which the warrant relates; and
- 21 (c) state that the warrant is issued under this Division; and
- 22 (d) specify the kinds of evidential material that are to be
23 searched for under the warrant; and
- 24 (e) state that the evidential material specified may be seized
25 under the warrant; and
- 26 (f) state that any thing found in the course of executing the
27 warrant, that the person executing the warrant believes on
28 reasonable grounds to be evidence of the contravention of a
29 related provision, may be seized under the warrant; and
- 30 (g) name one or more authorised persons; and
- 31 (h) authorise the authorised persons named in the warrant:

- 1 (i) to enter the premises; and
2 (ii) to exercise the powers set out in this Part and Part 7 in
3 relation to the premises; and
4 (i) state whether entry is authorised to be made at any time of
5 the day or during specified hours of the day; and
6 (j) specify the day (not more than 1 week after the issue of the
7 warrant) on which the warrant ceases to be in force.

8 **139 Investigation warrants by telephone, fax etc.**

9 *Application for warrant*

- 10 (1) An authorised person may apply to an issuing officer by telephone,
11 fax or other electronic means for a warrant under section 138 in
12 relation to premises:
13 (a) in an urgent case; or
14 (b) if the delay that would occur if an application were made in
15 person would frustrate the effective execution of the warrant.
- 16 (2) The issuing officer may require communication by voice to the
17 extent that it is practicable in the circumstances.
- 18 (3) Before applying for the warrant, the authorised person must
19 prepare an information of the kind mentioned in subsection 138(2)
20 in relation to the premises that sets out the grounds on which the
21 warrant is sought. If it is necessary to do so, the authorised person
22 may apply for the warrant before the information is sworn or
23 affirmed.

24 *Issuing officer may complete and sign warrant*

- 25 (4) The issuing officer may complete and sign the same warrant that
26 would have been issued under section 138 if the issuing officer is
27 satisfied that there are reasonable grounds for doing so:
28 (a) after considering the terms of the information; and
29 (b) after receiving such further information (if any) as the issuing
30 officer requires concerning the grounds on which the issue of
31 the warrant is being sought.

Section 140

- 1 (5) After completing and signing the warrant, the issuing officer must
2 inform the authorised person, by telephone, fax or other electronic
3 means, of:
4 (a) the terms of the warrant; and
5 (b) the day on which, and the time at which, the warrant was
6 signed.

7 *Obligations on authorised person*

- 8 (6) The authorised person must then do the following:
9 (a) complete a form of warrant in the same terms as the warrant
10 completed and signed by the issuing officer;
11 (b) state on the form the following:
12 (i) the name of the issuing officer;
13 (ii) the day on which, and the time at which, the warrant
14 was signed;
15 (c) send the following to the issuing officer:
16 (i) the form of warrant completed by the authorised person;
17 (ii) the information referred to in subsection (3), which
18 must have been duly sworn or affirmed.
- 19 (7) The authorised person must comply with paragraph (6)(c) by the
20 end of the day after the earlier of the following:
21 (a) the day on which the warrant ceases to be in force;
22 (b) the day on which the warrant is executed.

23 *Issuing officer to attach documents together*

- 24 (8) The issuing officer must attach the documents provided under
25 paragraph (6)(c) to the warrant signed by the issuing officer.

26 **140 Authority of warrant**

- 27 (1) A form of warrant duly completed under subsection 139(6) is
28 authority for the same powers as are authorised by the warrant
29 signed by the issuing officer under subsection 139(4).

- 1 (2) In any proceedings, a court is to assume (unless the contrary is
2 proved) that an exercise of power was not authorised by a warrant
3 under section 139 if:
4 (a) it is material, in those proceedings, for the court to be
5 satisfied that the exercise of power was authorised by that
6 section; and
7 (b) the warrant signed by the issuing officer authorising the
8 exercise of the power is not produced in evidence.

9 **141 Offence relating to warrants by telephone, fax etc.**

10 An authorised person must not:

- 11 (a) state in a document that purports to be a form of warrant
12 under section 139 the name of an issuing officer unless that
13 issuing officer signed the warrant; or
14 (b) state on a form of warrant under that section a matter that, to
15 the authorised person's knowledge, departs in a material
16 particular from the terms of the warrant signed by the issuing
17 officer under that section; or
18 (c) purport to execute, or present to another person, a document
19 that purports to be a form of warrant under that section that
20 the authorised person knows departs in a material particular
21 from the terms of a warrant signed by an issuing officer
22 under that section; or
23 (d) purport to execute, or present to another person, a document
24 that purports to be a form of warrant under that section where
25 the authorised person knows that no warrant in the terms of
26 the form of warrant has been completed and signed by an
27 issuing officer; or
28 (e) give to an issuing officer a form of warrant under that section
29 that is not the form of warrant that the authorised person
30 purported to execute.

31 Penalty: Imprisonment for 2 years.

1 **142 Completing execution of an investigation warrant after**
2 **temporary cessation**

- 3 (1) This section applies if an authorised person, and all persons
4 assisting, who are executing an investigation warrant in relation to
5 premises temporarily cease its execution and leave the premises.
- 6 (2) The authorised person, and persons assisting, may complete the
7 execution of the warrant if:
- 8 (a) the warrant is still in force; and
9 (b) the authorised person and persons assisting are absent from
10 the premises:
- 11 (i) for not more than 1 hour; or
12 (ii) if there is an emergency situation, for not more than 12
13 hours or such longer period as allowed by an issuing
14 officer under subsection (5); or
15 (iii) for a longer period if the occupier of the premises
16 consents in writing.

17 *Application for extension in emergency situation*

- 18 (3) An authorised person, or person assisting, may apply to an issuing
19 officer for an extension of the 12-hour period mentioned in
20 subparagraph (2)(b)(ii) if:
- 21 (a) there is an emergency situation; and
22 (b) the authorised person or person assisting believes on
23 reasonable grounds that the authorised person and the
24 persons assisting will not be able to return to the premises
25 within that period.
- 26 (4) If it is practicable to do so, before making the application, the
27 authorised person or person assisting must give notice to the
28 occupier of the premises of his or her intention to apply for an
29 extension.

30 *Extension in emergency situation*

- 31 (5) An issuing officer may extend the period during which the
32 authorised person and persons assisting may be away from the
33 premises if:

- 1 (a) an application is made under subsection (3); and
2 (b) the issuing officer is satisfied, by information on oath or
3 affirmation, that there are exceptional circumstances that
4 justify the extension; and
5 (c) the extension would not result in the period ending after the
6 warrant ceases to be in force.

7 **143 Completing execution of an investigation warrant stopped by**
8 **court order**

9 An authorised person, and any persons assisting, may complete the
10 execution of an investigation warrant that has been stopped by an
11 order of a court if:

- 12 (a) the order is later revoked or reversed on appeal; and
13 (b) the warrant is still in force when the order is revoked or
14 reversed.
15

1 **Part 7—General provisions relating to monitoring**
2 **and investigation**

3 **Division 1—Obligations of authorised persons in entering**
4 **premises**

5 **144 Consent**

- 6 (1) Before obtaining the consent of an occupier to enter premises for
7 the purposes of paragraph 117(2)(a) or 125(2)(a), an authorised
8 person must inform the occupier that the occupier may refuse
9 consent.
- 10 (2) A consent has no effect unless the consent is voluntary.
- 11 (3) A consent may be expressed to be limited to entry during a
12 particular period. If so, the consent has effect for that period unless
13 the consent is withdrawn before the end of that period.
- 14 (4) A consent that is not limited as mentioned in subsection (3) has
15 effect until the consent is withdrawn.
- 16 (5) If an authorised person entered premises because of the consent of
17 the occupier of the premises, the authorised person, and any person
18 assisting the authorised person, must leave the premises if the
19 consent ceases to have effect.

20 **145 Announcement before entry under warrant**

- 21 (1) Before entering premises under a monitoring warrant or an
22 investigation warrant, an authorised person must:
- 23 (a) announce that he or she is authorised to enter the premises;
24 and
- 25 (b) show his or her identity card to the occupier of the premises,
26 or to another person who apparently represents the occupier,
27 if the occupier or other person is present at the premises; and
- 28 (c) give any person at the premises an opportunity to allow entry
29 to the premises.

- 1 (2) However, an authorised person is not required to comply with
2 subsection (1) if the authorised person believes on reasonable
3 grounds that immediate entry to the premises is required:
4 (a) to ensure the safety of a person; or
5 (b) to ensure that the effective execution of the warrant is not
6 frustrated.
- 7 (3) If:
8 (a) an authorised person does not comply with subsection (1)
9 because of subsection (2); and
10 (b) the occupier of the premises, or another person who
11 apparently represents the occupier, is present at the premises;
12 the authorised person must show his or her identity card to the
13 occupier or other person as soon as practicable after entering the
14 premises.

15 **146 Authorised person to be in possession of warrant**

- 16 (1) An authorised person executing a monitoring warrant must be in
17 possession of the warrant issued by the issuing officer under
18 section 124, or a copy of the warrant as so issued.
- 19 (2) An authorised person executing an investigation warrant must be in
20 possession of:
21 (a) the warrant issued by the issuing officer under section 138, or
22 a copy of the warrant as so issued; or
23 (b) the form of warrant completed under subsection 139(6), or a
24 copy of the form as so completed.

25 **147 Details of warrant etc. to be given to occupier**

- 26 (1) An authorised person must comply with subsection (2) if:
27 (a) a monitoring warrant or an investigation warrant is being
28 executed in relation to premises; and
29 (b) the occupier of the premises, or another person who
30 apparently represents the occupier, is present at the premises.
- 31 (2) The authorised person executing the warrant must, as soon as
32 practicable:

Chapter 7 Monitoring and investigation

Part 7 General provisions relating to monitoring and investigation

Division 1 Obligations of authorised persons in entering premises

Section 147

- 1 (a) if the warrant is a monitoring warrant issued under
2 section 124—make a copy of the warrant available to the
3 occupier or other person (which need not include the
4 signature of the issuing officer who issued it); and
5 (b) if the warrant is an investigation warrant—do one of the
6 following:
7 (i) if the warrant was issued under section 138—make a
8 copy of the warrant available to the occupier or other
9 person (which need not include the signature of the
10 issuing officer who issued it);
11 (ii) if the warrant was signed under section 139—make a
12 copy of the form of warrant completed under subsection
13 139(6) available to the occupier or other person; and
14 (c) inform the occupier or other person of the rights and
15 responsibilities of the occupier or other person under
16 Division 3 of this Part.
17

1 **Division 2—Other powers of authorised persons**

2 **Subdivision A—Asking questions and seeking production of**
3 **documents**

4 **148 Authorised person may ask questions and seek production of**
5 **documents**

6 *Application*

- 7 (1) This section applies if:
8 (a) an authorised person enters premises for the purposes of
9 determining whether:
10 (i) a provision of this Act has been, or is being, complied
11 with; or
12 (ii) information given in compliance or purported
13 compliance with a provision of this Act is correct; or
14 (b) an authorised person enters premises to search for evidential
15 material.

16 *Entry with consent—authorised person may ask questions or*
17 *request production of documents*

- 18 (2) If the entry is authorised because the occupier of the premises
19 consented to the entry, the authorised person may ask the occupier
20 to answer any questions, and produce any document, relating to:
21 (a) the operation of the provision mentioned in
22 subparagraph (1)(a)(i); or
23 (b) the information mentioned in subparagraph (1)(a)(ii); or
24 (c) evidential material.

25 *Entry under a warrant—authorised person may require answers or*
26 *production of documents*

- 27 (3) If the entry is authorised by a monitoring warrant or an
28 investigation warrant, the authorised person may require any
29 person on the premises to answer any questions, and produce any
30 document, relating to:
31 (a) in the case of a monitoring warrant:

Section 149

- 1 (i) the operation of the provision mentioned in
2 subparagraph (1)(a)(i); or
3 (ii) the information mentioned in subparagraph (1)(a)(ii); or
4 (b) in the case of an investigation warrant—evidential material
5 of the kind specified in the warrant.

6 *Offence*

- 7 (4) A person commits an offence if:
8 (a) the person is subject to a requirement under subsection (3);
9 and
10 (b) the person fails to comply with the requirement.

11 Penalty for contravention of this subsection: 30 penalty units.

12 **Subdivision B—Opening gaming machines**

13 **149 Authorised person may open gaming machines**

14 *Application*

- 15 (1) This section applies if an authorised person:
16 (a) enters premises and exercises monitoring powers under
17 Part 5; or
18 (b) enters premises and exercises investigation powers under
19 Part 6.

20 *Opening gaming machines*

- 21 (2) The authorised person may, in the course of exercising monitoring
22 powers or investigation powers, do any or all of the following in
23 relation to a gaming machine on the premises:
24 (a) open the gaming machine;
25 (b) open, inspect, examine, take measurements of or conduct
26 tests on any components inside the gaming machine
27 (including a component that has been sealed);
28 (c) if the gaming machine, or a component inside the gaming
29 machine, has been marked or sealed to preserve the integrity

1 of the operation of the gaming machine—to remove, alter or
2 break the mark or seal to open the machine or component;
3 (d) request a person to do a thing mentioned in paragraphs (a) to
4 (c).

5 Note 1: If entry to the premises is under a monitoring warrant or an
6 investigation warrant, a failure to comply with a request under
7 paragraph (2)(d) is an offence (see section 153).

8 Note 2: Subsection (2) of this section has effect despite any State or Territory
9 law to the contrary (see section 151).

10 *Prerequisites when opening a gaming machine or component*

11 (3) An authorised person may open a gaming machine or component
12 as mentioned in paragraphs (2)(a) to (c) only if:
13 (a) the authorised person has appropriate training in relation to
14 the opening of the machine or component; and
15 (b) the authorised person believes on reasonable grounds that the
16 opening of the machine or component can be carried out
17 without damage to the machine or component.

18 (4) An authorised person may request a person to do a thing under
19 paragraph (2)(d) in relation to a gaming machine or component
20 only if the authorised person believes on reasonable grounds that
21 the thing can be done without damage to the machine or
22 component.

23 (5) To avoid doubt, in subsections (3) and (4), damage to the machine
24 or component does not include damage to a mark or seal referred to
25 in paragraph (2)(c) in relation to the machine or component.

26 *Monitoring and investigation powers not limited*

27 (6) The powers in subsection (2) do not limit the monitoring powers or
28 investigation powers.

29 **150 Authorised person to notify about broken seals and reseal**
30 **gaming machines**

31 (1) This section applies if an authorised person has, under section 149:
32 (a) removed, altered or broken; or

Chapter 7 Monitoring and investigation

Part 7 General provisions relating to monitoring and investigation

Division 2 Other powers of authorised persons

Section 151

- 1 (b) requested the removal, alteration or breaking of;
2 a mark or seal referred to in paragraph 149(2)(c) in relation to a
3 gaming machine located on premises in a State or Territory.
- 4 (2) The authorised person must:
5 (a) notify as soon as practicable:
6 (i) the occupier of the premises; and
7 (ii) the person or other body responsible for regulating
8 gaming machines in the State or Territory; and
9 (b) reseal the machine or component in accordance with
10 procedures prescribed by the regulations.

11 *Regulations*

- 12 (3) The regulations may:
13 (a) prescribe procedures for resealing gaming machines, or
14 components of gaming machines, that have been opened
15 under section 149; and
16 (b) prohibit a person from removing, altering or breaking a seal
17 applied in accordance with procedures mentioned in
18 paragraph (a), unless the person is permitted to do so by the
19 regulations; and
20 (c) provide for offences in relation to a contravention of a
21 prohibition mentioned in paragraph (b).

22 Note: For the limit on penalties for offences against the regulations, see
23 section 201.

24 **151 Relationship with State or Territory laws**

- 25 (1) This Subdivision has effect despite any law of a State or Territory
26 to the contrary.
- 27 (2) A person does not commit an offence, and is not liable to any
28 penalty, under the provisions of an enactment of a State or
29 Territory, as a result of the person:
30 (a) doing a thing mentioned in subsection 149(2) in accordance
31 with section 149 (including doing a thing mentioned in that
32 subsection as a result of a request under paragraph
33 149(2)(d)); or

1
2
3

(b) resealing a gaming machine or component in accordance
with section 150.

1 **Division 3—Occupier's rights and responsibilities on entry**

2 **152 Occupier entitled to observe execution of warrant**

3 (1) The occupier of premises to which a monitoring warrant or an
4 investigation warrant relates, or another person who apparently
5 represents the occupier, is entitled to observe the execution of the
6 warrant if the occupier or other person is present at the premises
7 while the warrant is being executed.

8 (2) The right to observe the execution of the warrant ceases if the
9 occupier or other person impedes that execution.

10 (3) This section does not prevent the execution of the warrant in 2 or
11 more areas of the premises at the same time.

12 **153 Occupier to provide authorised person with facilities and**
13 **assistance**

14 (1) The occupier of premises to which a monitoring warrant or an
15 investigation warrant relates, or another person who apparently
16 represents the occupier, must provide:
17 (a) an authorised person executing the warrant; and
18 (b) any person assisting the authorised person;
19 with all reasonable facilities and assistance for the effective
20 exercise of their powers (including complying with a request made
21 under paragraph 149(2)(d)).

22 (2) A person commits an offence if:
23 (a) the person is subject to subsection (1); and
24 (b) the person fails to comply with that subsection.

25 Penalty for contravention of this subsection: 30 penalty units.
26

1 **Division 4—Miscellaneous**

2 **154 Powers of issuing officers**

3 *Powers conferred personally*

- 4 (1) A power conferred on an issuing officer by this Part, Part 5
5 (monitoring powers) or Part 6 (investigation powers) is conferred
6 on the issuing officer:
7 (a) in a personal capacity; and
8 (b) not as a court or a member of a court.

9 *Powers need not be accepted*

- 10 (2) The issuing officer need not accept the power conferred.

11 *Protection and immunity*

- 12 (3) An issuing officer exercising a power conferred by this Part, Part 5
13 (monitoring powers) or Part 6 (investigation powers) has the same
14 protection and immunity as if the issuing officer were exercising
15 the power:
16 (a) as the court of which the issuing officer is a member; or
17 (b) as a member of the court of which the issuing officer is a
18 member.

19 **155 Compensation for damage to electronic equipment**

- 20 (1) This section applies if:
21 (a) as a result of electronic equipment being operated as
22 mentioned in Part 5 (monitoring powers) or 6 (investigation
23 powers):
24 (i) damage is caused to the equipment; or
25 (ii) the data recorded on the equipment is damaged; or
26 (iii) programs associated with the use of the equipment, or
27 with the use of the data, are damaged or corrupted; and
28 (b) the damage or corruption occurs because:
29 (i) insufficient care was exercised in selecting the person
30 who was to operate the equipment; or

Section 156

- 1 (ii) insufficient care was exercised by the person operating
2 the equipment.
- 3 Note: For a definition of *damage*, see section 5.
- 4 (2) The Commonwealth must pay the owner of the equipment, or the
5 user of the data or programs, such reasonable compensation for the
6 damage or corruption as the Commonwealth and the owner or user
7 agree on.
- 8 (3) However, if the owner or user and the Commonwealth fail to
9 agree, the owner or user may institute proceedings in a relevant
10 court for such reasonable amount of compensation as the court
11 determines.
- 12 (4) In determining the amount of compensation payable, regard is to
13 be had to whether the occupier of the premises, or the occupier's
14 employees or agents, if they were available at the time, provided
15 any appropriate warning or guidance on the operation of the
16 equipment.

17 **156 Compensation for damage to gaming machine**

- 18 (1) This section applies if:
19 (a) as a result of a gaming machine, or a component of the
20 gaming machine, being opened as mentioned in section 149,
21 damage is caused to the machine or component; and
22 (b) the damage occurs because:
23 (i) insufficient care was exercised by an authorised person
24 in selecting the person (other than a person requested
25 under paragraph 149(2)(d)) who was to open the
26 machine or component; or
27 (ii) insufficient care was exercised by an authorised person
28 opening the machine or component.
- 29 (2) The Commonwealth must pay the owner of the gaming machine
30 such reasonable compensation for the damage as the
31 Commonwealth and the owner agree on.

- 1 (3) However, if the owner and the Commonwealth fail to agree, the
2 owner may institute proceedings in a relevant court for such
3 reasonable amount of compensation as the court determines.
- 4 (4) In determining the amount of compensation payable, regard is to
5 be had to whether the occupier of the premises, or the occupier's
6 employees or agents, if they were available at the time, provided
7 any appropriate warning or guidance on the opening of the gaming
8 machine or component.
9

Section 157

1 **Part 8—Requiring persons to give information,**
2 **produce documents and keep records**
3

4 **157 Power to require persons to give information, produce**
5 **documents or answer questions**

- 6 (1) The Regulator may give a notice to a person under subsection (2) if
7 the Regulator has reason to believe that the person has information
8 or a document that is relevant to the administration or enforcement
9 of this Act.
- 10 (2) The Regulator may, by written notice given to the person, require
11 the person:
- 12 (a) to give any such information to a specified authorised person;
13 or
14 (b) to produce any such document to a specified authorised
15 person; or
16 (c) to appear before a specified authorised person to answer
17 questions.
- 18 (3) The notice must:
- 19 (a) if paragraph (2)(a) or (b) applies:
- 20 (i) specify the period (which must be at least 14 days after
21 the notice is given to the person) within which the
22 person is required to comply with the notice; and
23 (ii) specify the manner in which the person is required to
24 comply with the notice; and
- 25 (b) if paragraph (2)(c) applies—specify a time and place at
26 which the person is to appear; and
- 27 (c) in any case—state the effect of:
- 28 (i) subsection (6) (offence for failure to comply); and
29 (ii) sections 137.1 and 137.2 of the *Criminal Code* (false or
30 misleading information or documents).

1

Oath or affirmation

2

(4) An authorised person may require answers provided under paragraph (2)(c) to be verified by, or given on, oath or affirmation and either orally or in writing.

3

4

5

(5) An authorised person to whom information or answers are verified or given may administer the oath or affirmation.

6

7

Offence

8

(6) A person commits an offence if:

9

(a) the person is given a notice under subsection (2); and

10

(b) the person fails to comply with the notice.

11

Penalty for contravention of this subsection: 30 penalty units or imprisonment for 6 months, or both.

12

158 Translation of documents

13

(1) If:

14

(a) a person is required by this Act to produce a document; and

15

(b) the document is not written in English;

16

an authorised person may request the person to make available a certified English translation of the document within 28 days.

17

18

Offence

19

(2) A person commits an offence if the person refuses or fails to comply with a request under subsection (1).

20

21

Penalty: 4 penalty units.

22

(3) An offence against subsection (2) is an offence of strict liability.

23

24

Note: For strict liability, see section 6.1 of the *Criminal Code*.

25

Definition

26

(4) In this Act:

Section 159

1 *certified*, in relation to a translation of a document, means certified
2 by a statement in writing to be a correct translation of the
3 document into English.

4 **159 Record keeping requirements**

5 *Regulations may prescribe record keeping requirements*

- 6 (1) The regulations may prescribe requirements in relation to keeping
7 and retaining records of specified information that is relevant to
8 this Act.
- 9 (2) Regulations for the purposes of subsection (1) may impose such
10 requirements on any or all of the following persons:
- 11 (a) a constitutional corporation that makes a gaming machine
12 available for use;
- 13 (b) a person who:
- 14 (i) is an agent of a constitutional corporation that owns a
15 gaming machine; and
- 16 (ii) makes the gaming machine available for use;
- 17 (c) a person who makes a gaming machine that is owned by a
18 constitutional corporation available for use for the purposes
19 of, or in the course of, conducting the constitutional
20 corporation's business or activities;
- 21 (d) a person who makes a gaming machine available for use for
22 the purposes of, or in the course of, the business or activities
23 of a constitutional corporation that occupies premises on
24 which the gaming machine is located;
- 25 (e) a person who occupies gaming machine premises and allows
26 another person to provide an automatic teller machine on
27 those premises;
- 28 (f) a person who provides an automatic teller machine on
29 gaming machine premises;
- 30 (g) a person who is licensed under section 56;
- 31 (h) a person who is, or may be, liable to pay a levy.

32 *Offence*

- 33 (3) A person commits an offence if:
-

Section 159

- 1 (a) the person is subject to a requirement under regulations made
2 under subsection (1); and
3 (b) the person engages in conduct; and
4 (c) the person's conduct contravenes the requirement.

5 Penalty: 4 penalty units.

6 (4) Strict liability applies to paragraph (3)(a).

7 Note: For strict liability, see section 6.1 of the *Criminal Code*.
8

1 **Chapter 8—Enforcement**

2 **Part 1—Guide to this Chapter**
3

4 **160 Guide to this Chapter**

5 This Chapter provides for a range of actions to be taken to enforce
6 this Act.

7 Civil penalty orders may be sought from a court under Part 2, in
8 relation to contraventions of civil penalty provisions.

9 A person can be given an infringement notice under Part 3 in
10 relation to a contravention of a civil penalty provision.

11 A person who is given an infringement notice can choose to pay an
12 amount as an alternative to having court proceedings brought
13 against the person for a contravention of a provision. If the person
14 does not choose to pay the amount, proceedings can be brought
15 against the person in relation to the contravention.

16 An injunction may be sought under Part 4 to restrain a person from
17 contravening a provision, or to compel compliance with a
18 provision.

19 Under Part 5, the Regulator may accept from a person an
20 undertaking relating to compliance with a provision. The
21 undertaking may be enforced by court order.

22 A person may be given a compliance notice under Part 6, if an
23 authorised person reasonably believes that the person has
24 contravened a provision. The notice may require the person to take
25 specified action to remedy the contravention. A failure to comply
26 with a notice may be subject to a civil penalty.

27 The Regulator may publicise under Part 7 details of certain
28 enforcement action taken under this Chapter.

1 **Part 2—Civil penalty provisions**

2 **Division 1—Obtaining a civil penalty order**

3 **161 Civil penalty orders**

4 *Application for order*

- 5 (1) The Regulator may apply to a relevant court for an order that a
6 person, who is alleged to have contravened a civil penalty
7 provision, pay the Commonwealth a pecuniary penalty.

8 Note: The Regulator cannot apply for an order in certain cases where an
9 undertaking or compliance notice has been given (see subsections
10 187(6) and 189(5)).

- 11 (2) The Regulator must make the application within 4 years of the
12 alleged contravention.

13 *Court may order person to pay pecuniary penalty*

- 14 (3) If the relevant court is satisfied that the person has contravened the
15 civil penalty provision, the court may order the person to pay to the
16 Commonwealth such pecuniary penalty for the contravention as the
17 court determines to be appropriate.

18 Note: Subsection (5) sets out the maximum penalty that the court may order
19 the person to pay.

- 20 (4) An order under subsection (3) is a *civil penalty order*.

21 *Determining pecuniary penalty*

- 22 (5) The pecuniary penalty must not be more than:
23 (a) if the person is a body corporate—5 times the pecuniary
24 penalty specified for the civil penalty provision; and
25 (b) otherwise—the pecuniary penalty specified for the civil
26 penalty provision.
- 27 (6) In determining the pecuniary penalty, the court may take into
28 account all relevant matters, including:
29 (a) the nature and extent of the contravention; and

Section 162

- 1 (b) the nature and extent of any loss or damage suffered because
2 of the contravention; and
3 (c) the circumstances in which the contravention took place; and
4 (d) whether the person has previously been found by a court to
5 have engaged in any similar conduct.

6 **162 Civil enforcement of penalty**

- 7 (1) A pecuniary penalty is a debt payable to the Commonwealth.
8 (2) The Commonwealth may enforce a civil penalty order as if it were
9 an order made in civil proceedings against the person to recover a
10 debt due by the person. The debt arising from the order is taken to
11 be a judgement debt.

12 **163 Conduct contravening more than one civil penalty provision**

- 13 (1) If conduct constitutes a contravention of 2 or more civil penalty
14 provisions, proceedings may be instituted under this Part against a
15 person in relation to the contravention of any one or more of those
16 provisions.
17 (2) However, the person is not liable to more than one pecuniary
18 penalty under this Part in relation to the same conduct.

19 **164 Multiple contraventions**

- 20 (1) A relevant court may make a single civil penalty order against a
21 person for multiple contraventions of a civil penalty provision if
22 proceedings for the contraventions are founded on the same facts,
23 or if the contraventions form, or are part of, a series of
24 contraventions of the same or a similar character.
25 (2) However, the penalty must not exceed the sum of the maximum
26 penalties that could be ordered if a separate penalty were ordered
27 for each of the contraventions.

28 **165 Proceedings may be heard together**

- 29 A relevant court may direct that 2 or more proceedings for civil
30 penalty orders are to be heard together.

1 **166 Civil evidence and procedure rules for civil penalty orders**

2 A relevant court must apply the rules of evidence and procedure
3 for civil matters when hearing proceedings for a civil penalty
4 order.

5 **167 Contravening a civil penalty provision is not an offence**

6 A contravention of a civil penalty provision is not an offence.
7

1 **Division 2—Civil proceedings and other enforcement**
2 **action**

3 **168 Civil proceedings after other enforcement action**

4 A relevant court may not make a civil penalty order against a
5 person for a contravention (the *gambling contravention*) of a civil
6 penalty provision if:

- 7 (a) the person has been convicted of an offence under a law of
8 the Commonwealth, a State or a Territory; or
9 (b) the person has been found by a court to have contravened a
10 civil penalty provision under a law of a State or a Territory;
11 that is constituted by conduct that is the same, or substantially the
12 same, as the conduct constituting the gambling contravention.

13 **169 Other enforcement action during civil proceedings**

14 (1) Proceedings (the *gambling proceedings*) for a civil penalty order
15 against a person for a contravention (the *gambling contravention*)
16 of a civil penalty provision are stayed if:

- 17 (a) either:
18 (i) criminal proceedings are commenced or have already
19 been commenced against the person for an offence
20 under a law of the Commonwealth, a State or a
21 Territory; or
22 (ii) civil proceedings are commenced or have already been
23 commenced against the person for a contravention of a
24 civil penalty provision under a law of a State or a
25 Territory; and
26 (b) the offence or civil penalty provision referred to in
27 paragraph (a) is constituted by conduct that is the same, or
28 substantially the same, as the conduct alleged to constitute
29 the gambling contravention.

30 (2) The gambling proceedings may be resumed if the person is not
31 convicted of the offence, or a court does not find that the person
32 has contravened the civil penalty provision, referred to in
33 paragraph (1)(a). Otherwise, the gambling proceedings are
34 dismissed.

1 **170 Other enforcement action after civil proceedings**

2 The following proceedings may be commenced against a person:

- 3 (a) criminal proceedings under a law of the Commonwealth, a
4 State or a Territory (subject to the terms of that law);
5 (b) proceedings for a contravention of a civil penalty provision
6 under a law of a State or a Territory (subject to the terms of
7 that law);

8 for conduct that is the same, or substantially the same, as conduct
9 that would constitute a contravention of a civil penalty provision
10 under this Act regardless of whether a civil penalty order has been
11 made against the person in relation to the contravention.

12 **171 Evidence given in civil proceedings not admissible in criminal**
13 **proceedings**

14 (1) Evidence of information given, or evidence of production of
15 documents, by an individual is not admissible in criminal
16 proceedings brought under a law of the Commonwealth against the
17 individual if:

- 18 (a) the individual previously gave the evidence or produced the
19 documents in proceedings under this Act for a civil penalty
20 order against the individual for an alleged contravention of a
21 civil penalty provision (whether or not the order was made);
22 and
23 (b) the conduct alleged to constitute the offence is the same, or
24 substantially the same, as the conduct alleged to constitute
25 the contravention.

26 (2) However, subsection (1) does not apply to criminal proceedings in
27 relation to the falsity of the evidence given by the individual in the
28 proceedings for the civil penalty order.
29

1 **Division 3—Miscellaneous**

2 **172 Ancillary contravention of civil penalty provisions**

- 3 (1) A person must not:
- 4 (a) attempt to contravene a civil penalty provision; or
- 5 (b) aid, abet, counsel or procure a contravention of a civil
- 6 penalty provision; or
- 7 (c) induce (by threats, promises or otherwise) a contravention of
- 8 a civil penalty provision; or
- 9 (d) be in any way, directly or indirectly, knowingly concerned in,
- 10 or party to, a contravention of a civil penalty provision; or
- 11 (e) conspire with others to effect a contravention of a civil
- 12 penalty provision.

13 Note: Section 174 (which provides that a person's state of mind does not
14 need to be proven in relation to a civil penalty provision) does not
15 apply to this subsection.

16 *Civil penalty*

- 17 (2) A person who contravenes subsection (1) in relation to a civil
- 18 penalty provision is taken to have contravened the provision.

19 **173 Mistake of fact**

- 20 (1) A person is not liable to have a civil penalty order made against the
- 21 person for a contravention of a civil penalty provision if:
- 22 (a) at or before the time of the conduct constituting the
- 23 contravention, the person:
- 24 (i) considered whether or not facts existed; and
- 25 (ii) was under a mistaken but reasonable belief about those
- 26 facts; and
- 27 (b) had those facts existed, the conduct would not have
- 28 constituted a contravention of the civil penalty provision.
- 29 (2) For the purposes of subsection (1), a person may be regarded as
- 30 having considered whether or not facts existed if:

Section 174

- 1 (a) the person had considered, on a previous occasion, whether
2 those facts existed in the circumstances surrounding that
3 occasion; and
4 (b) the person honestly and reasonably believed that the
5 circumstances surrounding the present occasion were the
6 same, or substantially the same, as those surrounding the
7 previous occasion.
- 8 (3) A person who chooses to rely on subsection (1) or (2) in
9 proceedings for a civil penalty order bears an evidential burden in
10 relation to that matter.

11 **174 State of mind**

- 12 (1) In proceedings for a civil penalty order against a person for a
13 contravention of a civil penalty provision (other than a civil penalty
14 provision that is taken under subsection 172(2) to be contravened),
15 it is not necessary to prove:
16 (a) the person's intention; or
17 (b) the person's knowledge; or
18 (c) the person's recklessness; or
19 (d) the person's negligence; or
20 (e) any other state of mind of the person.
- 21 (2) Subsection (1) does not affect the operation of section 173 (which
22 is about mistake of fact).

23 **175 Civil penalty provisions contravened by employees, agents or**
24 **officers**

25 If an element of a civil penalty provision is done by an employee,
26 agent or officer of a body corporate acting within the actual or
27 apparent scope of his or her employment, or within his or her
28 actual or apparent authority, the element must also be attributed to
29 the body corporate.
30

1 **Part 3—Infringement notices**
2

3 **176 When an infringement notice may be given**

- 4 (1) If the Regulator has reasonable grounds to believe that a person has
5 contravened a civil penalty provision in Chapter 3 (non-compliance
6 with national gambling reforms) or 5 (requirements for
7 manufacturing and importing gaming machines), the Regulator
8 may give an infringement notice to the person for the alleged
9 contravention.
- 10 (2) The infringement notice must be given within 12 months after the
11 day on which the contravention is alleged to have taken place.
- 12 (3) A single infringement notice must relate only to a single
13 contravention of a single provision.

14 **177 Matters to be included in an infringement notice**

- 15 (1) An infringement notice must:
16 (a) be identified by a unique number; and
17 (b) state the day on which it is given; and
18 (c) state the name of the person to whom the notice is given; and
19 (d) give brief details of the alleged contravention, including:
20 (i) the provision that was allegedly contravened; and
21 (ii) the maximum penalty that a court could impose for the
22 contravention; and
23 (iii) the time (if known) and day of, and the place of, the
24 alleged contravention; and
25 (e) state the amount that is payable under the notice; and
26 (f) give an explanation of how payment of the amount is to be
27 made; and
28 (g) state that, if the person to whom the notice is given pays the
29 amount within 28 days after the day the notice is given, then
30 (unless the notice is withdrawn) proceedings for a civil
31 penalty order will not be brought in relation to the alleged
32 contravention; and

Section 178

- 1 (h) state that payment of the amount is not an admission of
2 liability; and
- 3 (i) state that the person may apply to the Regulator to have the
4 period in which to pay the amount extended; and
- 5 (j) state that the person may choose not to pay the amount and, if
6 the person does so, proceedings for a civil penalty order may
7 be brought in relation to the alleged contravention; and
- 8 (k) set out how the notice can be withdrawn; and
- 9 (l) state that if the notice is withdrawn, proceedings for a civil
10 penalty order may be brought in relation to the alleged
11 contravention; and
- 12 (m) state that the person may make written representations to the
13 Regulator seeking the withdrawal of the notice.
- 14 (2) For the purposes of paragraph (1)(e), the following amount is to be
15 stated in the notice:
- 16 (a) for an alleged contravention by a person of a provision in
17 Part 2 of Chapter 3 (gaming machines that do not comply
18 with precommitment and dynamic warning requirements),
19 section 63 (providing non-compliant automatic teller
20 machine), or section 79 or 80 (manufacturing and importing
21 gaming machines):
- 22 (i) if the person is a body corporate—10 penalty units; or
23 (ii) otherwise—2 penalty units;
- 24 (b) for an alleged contravention by a person of section 62
25 (occupying premises containing non-compliant automatic
26 teller machine):
- 27 (i) if the person is a body corporate—5 penalty units; or
28 (ii) otherwise—1 penalty unit.

29 **178 Extension of time to pay amount**

- 30 (1) A person to whom an infringement notice has been given may
31 apply to the Regulator for an extension of the period referred to in
32 paragraph 177(1)(g).
- 33 (2) If the application is made before the end of that period, the
34 Regulator may, in writing, extend that period. The Regulator may
35 do so before or after the end of that period.

Section 179

- 1 (3) If the Regulator extends that period, a reference in this Part, or in a
2 notice or other instrument under this Part, to the period referred to
3 in paragraph 177(1)(g) is taken to be a reference to that period so
4 extended.
- 5 (4) If the Regulator does not extend that period, a reference in this Part
6 (other than in this section), or in a notice or other instrument under
7 this Part, to the period referred to in paragraph 177(1)(g) is taken to
8 be a reference to the period that ends on the later of the following
9 days:
10 (a) the day that is the last day of the period referred to in
11 paragraph 177(1)(g);
12 (b) the day that is 7 days after the day the person was given
13 notice of the Regulator's decision not to extend.
- 14 (5) The Regulator may extend the period more than once under
15 subsection (2).

16 **179 Withdrawal of an infringement notice**

17 *Representations seeking withdrawal of notice*

- 18 (1) A person to whom an infringement notice has been given may
19 make written representations to the Regulator seeking the
20 withdrawal of the notice.

21 *Withdrawal of notice*

- 22 (2) The Regulator may withdraw an infringement notice given to a
23 person (whether or not the person has made written representations
24 seeking the withdrawal).
- 25 (3) When deciding whether or not to withdraw an infringement notice
26 (the **relevant infringement notice**), the Regulator:
27 (a) must take into account any written representations seeking
28 the withdrawal that were given by the person to the
29 Regulator; and
30 (b) may take into account the following:

Section 180

- 1 (i) whether a court has previously imposed a penalty on the
2 person for a contravention of an offence or civil penalty
3 provision in this Act;
4 (ii) the circumstances of the alleged contravention;
5 (iii) whether the person has paid an amount, stated in an
6 earlier infringement notice, for a contravention of a civil
7 penalty provision that is constituted by conduct that is
8 the same, or substantially the same, as the conduct
9 alleged to constitute the contravention in the relevant
10 infringement notice;
11 (iv) any other matter the Regulator considers relevant.

12 *Notice of withdrawal*

- 13 (4) Notice of the withdrawal of the infringement notice must be given
14 to the person. The withdrawal notice must state:
15 (a) the person's name and address; and
16 (b) the day the infringement notice was given; and
17 (c) the identifying number of the infringement notice; and
18 (d) that the infringement notice is withdrawn; and
19 (e) that proceedings for a civil penalty order may be brought in
20 relation to the alleged contravention.

21 *Refund of amount if infringement notice withdrawn*

- 22 (5) If:
23 (a) the Regulator withdraws the infringement notice; and
24 (b) the person has already paid the amount stated in the notice;
25 the Commonwealth must refund to the person an amount equal to
26 the amount paid.

27 **180 Effect of payment of amount**

- 28 (1) If the person to whom an infringement notice for an alleged
29 contravention of a provision is given pays the amount stated in the
30 notice before the end of the period referred to in paragraph
31 177(1)(g):
32 (a) any liability of the person for the alleged contravention is
33 discharged; and

Section 181

- 1 (b) proceedings for a civil penalty order may not be brought in
2 relation to the alleged contravention; and
3 (c) the person is not regarded as having admitted liability for the
4 alleged contravention.
- 5 (2) Subsection (1) does not apply if the notice has been withdrawn.

6 **181 Effect of this Part**

- 7 This Part does not:
- 8 (a) require an infringement notice to be given to a person for an
9 alleged contravention of a civil penalty provision; or
10 (b) affect the liability of a person for an alleged contravention of
11 a civil penalty provision if:
12 (i) the person does not comply with an infringement notice
13 given to the person for the contravention; or
14 (ii) an infringement notice is not given to the person for the
15 contravention; or
16 (iii) an infringement notice is given to the person for the
17 contravention and is subsequently withdrawn; or
18 (c) limit a court's discretion to determine the amount of a
19 penalty to be imposed on a person who is found to have
20 contravened a civil penalty provision.
21

1 **Part 4—Injunctions**
2

3 **182 Grant of injunctions**

4 *Restraining injunctions*

5 (1) If a person has engaged, is engaging or is proposing to engage, in
6 conduct in contravention of any provision of this Act, a relevant
7 court may, on application by an authorised person, grant an
8 injunction:

- 9 (a) restraining the person from engaging in the conduct; and
10 (b) if, in the court’s opinion, it is desirable to do so—requiring
11 the person to do a thing.

12 *Performance injunctions*

13 (2) If:

- 14 (a) a person has refused or failed, or is refusing or failing, or is
15 proposing to refuse or fail, to do a thing; and
16 (b) the refusal or failure was, is or would be a contravention of a
17 provision of this Act;

18 a relevant court may, on application by an authorised person, grant
19 an injunction requiring the person to do that thing.

20 **183 Interim injunctions**

21 *Grant of interim injunctions*

22 (1) Before deciding an application for an injunction under section 182,
23 a relevant court may grant an interim injunction:

- 24 (a) restraining a person from engaging in conduct; or
25 (b) requiring a person to do a thing.

26 *No undertakings as to damages*

27 (2) The court must not require an applicant for an injunction under
28 section 182 to give an undertaking as to damages as a condition of
29 granting an interim injunction.

Section 184

1 **184 Discharging or varying injunctions**

2 A relevant court may discharge or vary an injunction granted by
3 that court under this Part.

4 **185 Certain limits on granting injunctions not to apply**

5 *Restraining injunctions*

- 6 (1) The power of a relevant court under this Part to grant an injunction
7 restraining a person from engaging in conduct may be exercised:
8 (a) whether or not it appears to the court that the person intends
9 to engage again, or to continue to engage, in conduct of that
10 kind; and
11 (b) whether or not the person has previously engaged in conduct
12 of that kind; and
13 (c) whether or not there is an imminent danger of substantial
14 damage to any other person if the person engages in conduct
15 of that kind.

16 *Performance injunctions*

- 17 (2) The power of a relevant court under this Part to grant an injunction
18 requiring a person to do a thing may be exercised:
19 (a) whether or not it appears to the court that the person intends
20 to refuse or fail again, or to continue to refuse or fail, to do
21 that thing; and
22 (b) whether or not the person has previously refused or failed to
23 do that thing; and
24 (c) whether or not there is an imminent danger of substantial
25 damage to any other person if the person refuses or fails to do
26 that thing.

27 **186 Other powers of a relevant court unaffected**

28 The powers conferred on a relevant court under this Part are in
29 addition to, and not instead of, any other powers of the court,
30 whether conferred by this Act or otherwise.
31

1 **Part 5—Enforceable undertakings**
2

3 **187 Acceptance of undertakings**

- 4 (1) The Regulator may accept any of the following undertakings:
5 (a) a written undertaking given by a person that the person will,
6 in order to comply with a provision of this Act, take specified
7 action;
8 (b) a written undertaking given by a person that the person will,
9 in order to comply with a provision of this Act, refrain from
10 taking specified action;
11 (c) a written undertaking given by a person that the person will
12 take specified action directed towards ensuring that the
13 person does not contravene a provision of this Act, or is
14 unlikely to contravene such a provision, in the future.
- 15 (2) The undertaking must be expressed to be an undertaking under this
16 section.
- 17 (3) The person may withdraw or vary the undertaking at any time, but
18 only with the written consent of the Regulator.
- 19 (4) The consent of the Regulator is not a legislative instrument.
- 20 (5) The Regulator may, by written notice given to the person, cancel
21 the undertaking.

22 *Relationship with civil penalty provisions*

- 23 (6) The Regulator must not apply for a civil penalty order in relation to
24 a contravention of a civil penalty provision by a person if an
25 undertaking given by the person (and accepted) under this section
26 in relation to the contravention has not been withdrawn or
27 cancelled.

28 *Relationship with compliance notices*

- 29 (7) The Regulator must not accept an undertaking in relation to a
30 contravention if the person has been given a notice in relation to
31 the contravention under section 189.

Section 188

1 **188 Enforcement of undertakings**

2 (1) If:

- 3 (a) a person has given an undertaking under section 187; and
4 (b) the undertaking has not been withdrawn or cancelled; and
5 (c) the Regulator considers that the person has breached the
6 undertaking;

7 the Regulator may apply to a relevant court for an order under
8 subsection (2).

9 (2) If the relevant court is satisfied that the person has breached the
10 undertaking, the court may make any or all of the following orders:

- 11 (a) an order directing the person to comply with the undertaking;
12 (b) an order directing the person to pay to the Commonwealth an
13 amount up to the amount of any financial benefit that the
14 person has obtained directly or indirectly and that is
15 reasonably attributable to the breach;
16 (c) any order that the court considers appropriate directing the
17 person to compensate any other person who has suffered loss
18 or damage as a result of the breach;
19 (d) any other order that the court considers appropriate.
20

1 **Part 6—Compliance notices**
2

3 **189 Compliance notices**

4 *Application of this section*

- 5 (1) This section applies if an authorised person reasonably believes
6 that a person has contravened any provision of this Act.

7 *Giving a notice*

- 8 (2) The authorised person may, except as provided by subsection (4),
9 give the person a notice requiring the person to do the following
10 within such reasonable time as is specified in the notice:

- 11 (a) take specified action to remedy the direct effects of the
12 contravention referred to in subsection (1);
13 (b) produce reasonable evidence of the person's compliance with
14 the notice.

- 15 (3) The notice must also:

- 16 (a) set out the name of the person to whom the notice is given;
17 and
18 (b) set out the name of the authorised person who gave the
19 notice; and
20 (c) set out brief details of the contravention; and
21 (d) explain that a failure to comply with the notice may
22 contravene a civil penalty provision; and
23 (e) explain that the person may apply to a relevant court for a
24 review of the notice on either or both of the following
25 grounds:
26 (i) the person has not committed a contravention set out in
27 the notice;
28 (ii) the notice does not comply with subsection (2) or this
29 subsection; and
30 (f) set out any other matters prescribed by the regulations.

Section 189

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Relationship with enforceable undertakings

- (4) An authorised person must not give a person a notice in relation to a contravention if:
- (a) the person has given an undertaking under section 187 in relation to the contravention; and
 - (b) the undertaking has been accepted by the Regulator; and
 - (c) the undertaking has not been withdrawn or cancelled.

Relationship with civil penalty provisions

- (5) The Regulator must not apply for a civil penalty order in relation to a contravention of a civil penalty provision by a person if:
- (a) an authorised person has given the person a notice in relation to the contravention; and
 - (b) either of the following subparagraphs applies:
 - (i) the notice has not been withdrawn, and the person has complied with the notice;
 - (ii) the person has made an application under section 190 in relation to the notice that has not been completely dealt with.
- (6) A person who complies with a notice in relation to a contravention of a civil penalty provision is not taken:
- (a) to have admitted to contravening the provision; or
 - (b) to have been found to have contravened the provision.

Person must not fail to comply with notice

- (7) A person must not fail to comply with a notice given under this section.

Civil penalty: 30 penalty units.

- (8) Subsection (7) does not apply if the person has a reasonable excuse.
- (9) A person who chooses to rely on subsection (8) in proceedings for a civil penalty order bears an evidential burden in relation to the matter in that subsection.

1 **190 Review of compliance notices**

2 (1) A person who has been given a notice under section 189 may apply
3 to a relevant court for a review of the notice on either or both of the
4 following grounds:

5 (a) the person has not committed a contravention set out in the
6 notice;

7 (b) the notice does not comply with subsection 189(2) or (3).

8 (2) At any time after the application has been made, the court may stay
9 the operation of the notice on the terms and conditions that the
10 court considers appropriate.

11 (3) The court may confirm, cancel or vary the notice after reviewing it.
12

Section 191

1 **Part 7—Miscellaneous**
2

3 **191 Regulator may publicise certain offences and contraventions**

- 4 (1) The Regulator may publicise, in any way he or she thinks
5 appropriate, any or all of the following:
6 (a) an offence against this Act of which a person has been
7 convicted, and the person's name;
8 (b) a contravention of a civil penalty provision in relation to
9 which a civil penalty order has been made against a person,
10 and the person's name;
11 (c) the acceptance of an undertaking given under section 187 by
12 a person, the terms of the undertaking, and the person's
13 name;
14 (d) a breach of an undertaking given under section 187 in
15 relation to which an order has been made against a person
16 under subsection 188(2), the terms of the order and the
17 person's name;
18 (e) the granting or varying of an injunction under Part 4
19 restraining a person from engaging in conduct, or requiring a
20 person to do a thing, the nature of the conduct or thing, and
21 the person's name.

22 Note: This subsection constitutes an authorisation for the purposes of other
23 laws, such as the *Privacy Act 1988*.

- 24 (2) This section does not:
25 (a) limit the power of the Regulator or anyone else to publicise a
26 matter or a person's name; or
27 (b) prevent anyone else from publicising a matter or a person's
28 name; or
29 (c) affect any obligation (however imposed) on anyone to
30 publicise a matter or a person's name.
31

1 **Chapter 9—Research, reviews and other**
2 **provisions**

3 **Part 1—Guide to this Chapter**
4

5 **192 Guide to this Chapter**

6 This Chapter contains miscellaneous provisions, such as provisions
7 that relate to research and reviews into gambling, review of
8 decisions, and the Regulator's power to delegate.

9 The Commonwealth is intending to agree to the conduct of a trial
10 to determine whether requiring all persons who use a gaming
11 machine to be registered delivers sufficient advantages over
12 allowing persons to choose to be registered to justify implementing
13 that requirement in all States and Territories. Under this Chapter,
14 the Commonwealth may only agree to a robust trial that is
15 independently designed, managed and evaluated. The Productivity
16 Commission is required to review the results of the trial, as well as
17 the progress gaming machine premises are making towards
18 complying with certain requirements in this Act.

19 In addition, the Director of the Australian Institute of Family
20 Studies may undertake or commission research, or produce data
21 and statistics, in relation to gambling. The Director is assisted by
22 an Expert Advisory Group on Gambling that is established by this
23 Chapter.
24

1 **Part 2—Research, reviews and other provisions**

2 **Division 1—Research and reviews**

3 **193 Productivity Commission review of results of trial if trial**
4 **conducted**

- 5 (1) This section applies if:
- 6 (a) the Commonwealth agrees that a trial is to be conducted in
7 relation to the requirements of Part 2 of Chapter 2
8 (precommitment systems); and
- 9 (b) the trial provides for mandatory precommitment by requiring
10 that all persons who use a gaming machine that is covered by
11 the trial be registered.
- 12 (2) The Commonwealth may only agree to the conduct of a trial which
13 contains all of the following features:
- 14 (a) one or more independent bodies must be engaged to design,
15 manage and evaluate the trial;
- 16 (b) the terms of, and methodology for, the trial must be agreed
17 between the body that is to design the trial and the body that
18 is to evaluate the trial;
- 19 (c) the design and evaluation of the trial must be subject to peer
20 review by academics with relevant expertise;
- 21 (d) the methodology for evaluating the trial must include:
- 22 (i) data from gaming machine premises in relevant
23 adjoining geographical areas; and
- 24 (ii) qualitative and quantitative approaches; and
- 25 (iii) consideration of any demographic differences between
26 the gambling populations of the trial area and the wider
27 Australian community; and
- 28 (iv) data on the impact of mandatory precommitment on
29 gaming machine premises participating in the trial, on
30 the users of gaming machines on those premises, and on
31 the families and communities of those users;
- 32 (e) the trial must monitor gambling behaviour for not less than
33 12 months;

- 1 (f) an independent auditor must be appointed to ensure the
2 integrity and transparency of any financial data;
- 3 (g) the results of the trial, and de-identified data from the trial,
4 must be publicly available (subject to ownership of the
5 results and data, privacy conditions, and release
6 arrangements).
- 7 (3) After the trial has been completed, the Productivity Minister must,
8 under paragraph 6(1)(a) of the *Productivity Commission Act 1998*,
9 refer to the Productivity Commission for inquiry the results of the
10 trial as evaluated by the independent body.
- 11 Note: For requirements in relation to the referral, and reports on the inquiry,
12 see section 195.
- 13 (4) As part of the inquiry, the Productivity Commission must consider
14 whether a precommitment system that requires all persons who use
15 a gaming machine to be registered delivers sufficient advantages to
16 individuals and communities over a precommitment system that
17 allows persons to choose to be registered to justify implementing
18 that requirement in all States and Territories.

19 **194 Productivity Commission review of assessment of progress**

- 20 (1) The Productivity Minister must, under paragraph 6(1)(a) of the
21 *Productivity Commission Act 1998*, refer to the Productivity
22 Commission for inquiry the following matters:
- 23 (a) an assessment of the progress gaming machine premises are
24 making towards complying with the requirements of Parts 2,
25 3 and 4 of Chapter 2 (precommitment systems, dynamic
26 warnings and ATM withdrawal limits) and Part 2 of
27 Chapter 5 (requirements for manufacturing and importing
28 gaming machines);
- 29 (b) any other matter that the Minister who administers this Act
30 considers relevant.
- 31 Note: For requirements in relation to the referral, and reports on the inquiry,
32 see section 195.
- 33 (2) The matters under this section must be referred no later than
34 30 September 2014.

Section 195

1 **195 Requirements for referrals to Productivity Commission and**
2 **reports**

- 3 (1) In referring, under section 193 or 194, a matter to the Productivity
4 Commission for inquiry, the Productivity Minister must:
5 (a) under paragraph 11(1)(b) of the *Productivity Commission Act*
6 1998, specify 6 months as the period within which the
7 Commission must submit its report on that inquiry to the
8 Productivity Minister; and
9 (b) under paragraph 11(1)(d) of that Act, require the Commission
10 to make recommendations to the Commonwealth
11 Government.

12 Note: Under section 12 of the *Productivity Commission Act 1998*, the
13 Productivity Minister must cause a copy of the Productivity
14 Commission's report to be tabled in each House of the Parliament.

15 *Recommendations by Productivity Commission*

- 16 (2) As soon as practicable after receiving a report on an inquiry, the
17 Minister who administers this Act must cause a statement to be
18 prepared that sets out the Commonwealth Government's response
19 to each of the recommendations.
20 (3) Within 3 months after receiving a report on an inquiry, that
21 Minister must cause copies of the statement to be tabled in each
22 House of the Parliament.

23 *Matters relating to industry, industry development and productivity*

- 24 (4) For the purposes of paragraph 6(1)(a) of the *Productivity*
25 *Commission Act 1998*, the matters referred to in sections 193 and
26 194 are taken to be matters relating to industry, industry
27 development and productivity.

28 *No limit on Productivity Minister's powers*

- 29 (5) Sections 193, 194 and this section do not limit the Productivity
30 Minister's powers under paragraph 6(1)(a) of the *Productivity*
31 *Commission Act 1998*.

196 Research into gambling

- 1
- 2 (1) In addition to the functions under subsection 114B(2) of the *Family*
3 *Law Act 1975*, the functions of the Director of the Australian
4 Institute of Family Studies include:
- 5 (a) undertaking or commissioning research into, or producing
6 data and statistics about, the following:
- 7 (i) the harm caused by gambling to problem gamblers, the
8 families and communities of problem gamblers, and
9 those at risk of experiencing that harm;
- 10 (ii) measures that may be undertaken to reduce that harm;
- 11 (iii) recreational gambling; and
- 12 (b) increasing the capability and capacity of researchers to
13 conduct the research and produce the data and statistics
14 referred to in paragraph (a).
- 15 (2) To avoid doubt, the functions of the Director referred to in
16 subsection (1) are part of the administration of this Act.
- 17 (3) The Director, when performing a function under subsection (1),
18 and the Australian Institute of Family Studies, when assisting the
19 Director in the performance of that function, are to be known as the
20 Australian Gambling Research Centre.
- 21 (4) For the purposes of section 114LD (delegation) of the *Family Law*
22 *Act 1975*, the functions of the Director referred to in subsection (1)
23 of this section are taken to be functions under Part XIVA of that
24 Act.

197 Expert Advisory Group on Gambling

- 25
- 26 (1) The Expert Advisory Group on Gambling is established by this
27 section.

Functions of Group

- 28
- 29 (2) The functions of the Group are to provide advice to the Director of
30 the Australian Institute of Family Studies, in his or her capacity as
31 the Director of the Australian Gambling Research Centre, in
32 relation to the following:

Section 197

- 1 (a) strategic directions, and research plans and programs, for
2 undertaking or commissioning research into, or producing
3 data and statistics about, gambling;
4 (b) strategies for increasing the capability and capacity of
5 researchers to conduct research into, or produce data and
6 statistics about, gambling.

7 Note: For the Australian Gambling Research Centre, see subsection 196(3).

8 *Membership of Group*

- 9 (3) The Group consists of:
10 (a) the Director; and
11 (b) at least 7, but no more than 11, other members.

12 *Appointments*

- 13 (4) A member of the Group (other than the Director) is to be appointed
14 by the Director by written instrument.
- 15 (5) The Director must not appoint a person as a member of the Group
16 unless the Director is satisfied that the person has relevant
17 expertise.
- 18 (6) The Director may revoke a person's appointment to the Group.
- 19 (7) The Director must determine, in writing, the terms and conditions
20 of appointment of the members of the Group.
- 21 (8) The office of a member of the Group is not a public office within
22 the meaning of the *Remuneration Tribunal Act 1973*.

23 *Directions by Director*

- 24 (9) The Director may give the Group written directions as to:
25 (a) the way in which the Group is to carry out its functions; and
26 (b) procedures to be followed in relation to meetings.
- 27 (10) A direction given under subsection (9) is not a legislative
28 instrument.

1 **Division 2—Other provisions**

2 **198 Internal review of reviewable decisions**

3 *Notice of reviewable decision*

- 4 (1) As soon as practicable after a person makes a reviewable decision
5 (other than a decision that was made by the Regulator personally),
6 the Regulator must cause a notice in writing to be given to the
7 person whose interests are affected by the decision containing:
8 (a) the terms of the decision; and
9 (b) the reasons for the decision; and
10 (c) a statement setting out particulars of the person's right to
11 have the decision reviewed under this section.

- 12 (2) A failure to comply with the requirements of subsection (1) in
13 relation to a decision does not affect the validity of the decision.

14 *Application to Regulator for review of decision*

- 15 (3) A person whose interests are affected by a reviewable decision
16 may apply in writing to the Regulator for review of the decision.
- 17 (4) An application for review must be made within:
18 (a) 30 days after the day on which the decision first came to the
19 notice of the applicant; or
20 (b) any other period the Regulator allows (whether before or
21 after the end of that period).

22 *Regulator to review decision*

- 23 (5) On receiving the application, the Regulator must review the
24 decision.

25 *Decision on review*

- 26 (6) The Regulator may:
27 (a) make a decision affirming, varying or revoking the
28 reviewable decision; and

Section 199

- 1 (b) if the Regulator revokes the decision, make any other
2 decision that the Regulator thinks appropriate.

3 **199 AAT review of decisions**

4 *Notice of AAT review*

- 5 (1) If the Regulator:
6 (a) makes a decision under subsection 198(6); or
7 (b) makes a reviewable decision personally;
8 the Regulator must cause a notice in writing to be given to the
9 person whose interests are affected by the decision containing:
10 (c) the terms of the decision; and
11 (d) the reasons for the decision; and
12 (e) a statement to the effect that, subject to the *Administrative*
13 *Appeals Tribunal Act 1975*, application may be made to the
14 Administrative Appeals Tribunal for review of the decision
15 to which the notice relates.
- 16 (2) A failure to comply with the requirements of subsection (1) of this
17 section in relation to a decision does not affect the validity of the
18 decision.

19 *Application to AAT*

- 20 (3) Applications may be made (subject to the *Administrative Appeals*
21 *Tribunal Act 1975*) to the Administrative Appeals Tribunal for
22 review of:
23 (a) decisions made under subsection 198(6); or
24 (b) reviewable decisions made by the Regulator personally.

25 *Meaning of decision*

- 26 (4) In this section:
27 **decision** has the same meaning as in the *Administrative Appeals*
28 *Tribunal Act 1975*.

200 Delegation

- 1
- 2 (1) The Regulator may, by signed writing, delegate all or any of the
- 3 Regulator's powers or functions under this Act, other than under
- 4 section 113 (Regulator is an authorised person), to the following
- 5 persons:
- 6 (a) an SES employee, or an acting SES employee, in the
- 7 Department;
- 8 (b) a person occupying, or acting in, a position that is equivalent
- 9 to or higher than an SES employee in:
- 10 (i) the public service of a State or Territory (subject to
- 11 subsection (3)); or
- 12 (ii) a body established for a public purpose by or under a
- 13 law of a State or Territory (subject to subsection (3)).
- 14 (2) In exercising powers or functions delegated under subsection (1),
- 15 the delegate must comply with any directions of the Regulator.
- 16 (3) The Regulator may not delegate a power or function under this Act
- 17 to a person referred to in paragraph (1)(b) without the written
- 18 agreement of the relevant Minister of the State or Territory.

201 Regulations

- 19
- 20 (1) The Governor-General may make regulations prescribing matters:
- 21 (a) required or permitted by this Act to be prescribed; or
- 22 (b) necessary or convenient to be prescribed for carrying out or
- 23 giving effect to this Act.
- 24 (2) Without limiting subsection (1), the regulations may include
- 25 offences and civil penalty provisions, and prescribe penalties for
- 26 contraventions of such provisions that do not exceed:
- 27 (a) for an offence—50 penalty units; and
- 28 (b) for a civil penalty provision:
- 29 (i) if the person who contravenes the civil penalty
- 30 provision is a body corporate—250 penalty units; or
- 31 (ii) otherwise—50 penalty units.