



## CASINO (LICENCE) AMENDMENT ACT 1999

No. 47 of 1999

### SUMMARY OF PROVISIONS

1. Short title
2. Insertion of s. 2A
  - 2A. Object
3. Amendment of s. 3—Interpretation
4. Substitution of s. 5
  5. Grant of licence
5. Substitution of s. 14
  14. Other transactions under which outsiders may acquire control or influence
  - 14A. Approval or ratification of transactions to which this Division applies
6. Amendment of s. 16—Approved licensing agreement
7. Amendment of s. 20—Applications
8. Amendment of s. 24—Governor and applicants to be notified of results of investigation
9. Amendment of s. 29—Obligations of the licensee
10. Amendment of s. 38—Approval of management systems etc.
11. Insertion of new Division 9
  - DIVISION 9—CONSULTATION WITH LICENSEE**
  - 47A. Requirement for Authority to consult licensee
  - 47B. Requirement for Commissioner to consult licensee
12. Amendment of s. 56—Statutory default
13. Amendment of s. 63—Power to appoint manager
14. Amendment of s. 64—Powers of manager
15. Insertion of new Division 7
  - DIVISION 7—ADMINISTRATORS, CONTROLLERS AND LIQUIDATORS**
  - 64A. Administrators, controllers and liquidators



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**ELIZABETHAE II REGINAE**

A.D. 1999

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**No. 47 of 1999**

**An Act to amend the Casino Act 1997.**

[Assented to 12 August 1999]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Casino (Licence) Amendment Act 1999*.

(2) The *Casino Act 1997* is referred to in this Act as "the principal Act".

**Insertion of s. 2A**

2. The following section is inserted in the principal Act after section 2:

**Object**

2A. The object of this Act is to provide for the licensing, supervision and control of the Adelaide Casino and, in particular, to ensure—

- (a) that the Adelaide Casino is properly managed and operated; and
- (b) that those involved in the control, management and operation of the Adelaide Casino are suitable persons to exercise their respective functions and responsibilities; and
- (c) that gambling in the Adelaide Casino is conducted fairly and honestly; and
- (d) that the interest of the State in the taxation of gambling revenue arising from the operation of the Adelaide Casino is properly protected.

**Amendment of s. 3—Interpretation**

3. Section 3 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) In this Act, "administrator", "controller" and "liquidator" have (unless the contrary intention appears) the same respective meanings as in the *Corporations Law*.

**Substitution of s. 5**

4. Section 5 of the principal Act is repealed and the following section is substituted:

**Grant of licence**

5. (1) The Governor may grant a casino licence.

(2) In the case of the first grant of a casino licence under this section, the grant is to be made to Adelaide Casino Pty Ltd (ACN 082 362 061).

(3) Any later grant of a casino licence under this section is to be made, on the recommendation of the Authority, to an applicant for the licence.

**Substitution of s. 14**

5. Section 14 of the principal Act is repealed and the following sections are substituted:

**Other transactions under which outsiders may acquire control or influence**

14. (1) This section applies to a transaction if it is a transaction (other than one for which the Authority's approval is required under this Division) under which a person or a group of persons who are close associates of each other attain a position of control or significant influence over the licensee.

(2) Within 14 days after the licensee becomes aware of a transaction to which this section applies, the licensee must—

- (a) inform the Commissioner and the Authority of the transaction; and
- (b) provide any information about the transaction that is available to the licensee.

Maximum penalty: \$60 000.

(3) If the licensee is a party to a transaction to which this section applies, and the transaction takes effect before the Authority approves it, the licensee is liable to disciplinary action.

(4) If a transaction to which this section applies has not been approved or ratified by the Authority, the Authority may, after allowing the parties to the transaction a reasonable opportunity to be heard, make orders of one or more of the following kinds:

- (a) an order avoiding the transaction;
- (b) an order requiring a person who has acquired an interest under the transaction to dispose of that interest within a specified time;
- (c) an order terminating a contractual or other relationship under which control or influence might be exercised over the licensee;
- (d) an order preventing or regulating the exercise of power or influence acquired as a result of the transaction;
- (e) an order (which may include an order for restitution) dealing with any consequential or ancillary issues.

(5) A person adversely affected by an order under subsection (4) may, within 1 month after the date of the order or a longer period allowed by the Supreme Court, appeal to the Supreme Court against the order.

(6) On an appeal, the Supreme Court may—

- (a) confirm, vary or revoke the Authority's order and, if the order is revoked, make any order that should have been made in the first place; and
- (b) make incidental and ancillary orders.

(7) The Supreme Court may, if satisfied on application by the Authority that there is good reason to do so, register an order of the Authority in the Court and, on registration, the order may be enforced as a judgment of the Court.

#### **Approval or ratification of transactions to which this Division applies**

**14A.** (1) An application for the Authority's approval or ratification of a transaction to which this Division applies—

- (a) must be made to the Authority by the parties to the transaction in the form required by the Authority; and
- (b) must be supported by the information required by the Authority.

(2) If a transaction to which this Division applies results or might result in the acquisition by a person other than the licensee of power to conduct, or to control or exercise significant influence over the conduct of, the casino business, the Authority—

- (a) must assess the suitability of that person to exercise that power and, in doing so, must apply (to the extent they are applicable) the same criteria as apply to assessing the suitability of a prospective licensee; and
- (b) must not approve or ratify the transaction unless satisfied that the person is a suitable person to exercise the relevant power.

(3) An application for the Authority's approval or ratification of a transaction to which this Division applies may be withdrawn by a party to the transaction at any time before the application is determined.

#### **Amendment of s. 16—Approved licensing agreement**

6. Section 16 of the principal Act is amended by inserting after subsection (4) the following subsection:

(4a) The agreement binds the licensee, the Minister, the Authority and the Commissioner and, if the agreement so provides, any other person who consents to be bound by the agreement.

#### **Amendment of s. 20—Applications**

7. Section 20 of the principal Act is amended—

- (a) by striking out paragraph (d) of subsection (2) and the word "and" immediately preceding that paragraph;

(b) by striking out subsections (4) and (5) and substituting the following subsection:

(4) An applicant for a licence may withdraw the application at any time and, in the case of an application for the transfer of a licence, either party to the application may withdraw the application at any time.

**Amendment of s. 24—Governor and applicants to be notified of results of investigation**

8. Section 24 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The Authority is not obliged to give reasons to an applicant for a recommendation that the application should be granted or rejected.

**Amendment of s. 29—Obligations of the licensee**

9. Section 29 of the principal Act is amended—

(a) by striking out from subsection (3) "Authority" and substituting "Commissioner";

(b) by inserting after paragraph (a) of subsection (5) the following paragraph:

(ab) in respect of an administrator, controller or liquidator of the licensee who has assumed control over the casino business or a person acting on the authority of such a person; or.

**Amendment of s. 38—Approval of management systems etc**

10. Section 38 of the principal Act is amended by striking out from subsection (1)(e) "Commissioner" and substituting "Authority".

**Insertion of new Division 9**

11. The following heading and sections are inserted after section 47 of the principal Act:

**DIVISION 9—CONSULTATION WITH LICENSEE**

**Requirement for Authority to consult licensee**

47A. (1) This section applies to any of the following powers of the Authority under this Part:

- (a) the power to give a direction or instruction;
- (b) the power of classification or designation in relation to officers or staff of the licensee;
- (c) the power to determine systems and procedures for which the Commissioner's approval will be required;
- (d) the power to notify the licensee of equipment for which the Commissioner's approval will be required.

(2) Before the Authority exercises a power to which this section applies the Authority must, unless the Authority considers it contrary to the public interest to do so—

- (a) give written notice to the licensee of the proposed exercise of power; and

- (b) consider any representations made by the licensee about the proposed exercise of power within 14 days after the notice is given or a longer period allowed in the notice.

**Requirement for Commissioner to consult licensee**

**47B.** (1) This section applies to any of the following powers of the Commissioner under this Part:

- (a) the power to give a direction or instruction;
- (b) the power to approve the basis on which staff gifts or gratuities may be accepted.

(2) Before the Commissioner exercises a power to which this section applies the Commissioner must, unless the Commissioner considers it contrary to the public interest to do so—

- (a) give written notice to the licensee of the proposed exercise of power; and
- (b) consider any representations made by the licensee about the proposed exercise of power within 14 days after the notice is given or a longer period allowed in the notice.

**Amendment of s. 56—Statutory default**

**12.** Section 56 of the principal Act is amended by inserting after paragraph (b) the following paragraph:

or

- (c) an event occurs, or circumstances come to light, that show the licensee to be an unsuitable person to continue to hold the licence.

**Amendment of s. 63—Power to appoint manager**

**13.** Section 63 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:

- (2) If the licensee—
  - (a) becomes insolvent within the meaning of Part 7.10 of the *Corporations Law*;  
or
  - (b) goes into liquidation,

the Minister may, on the recommendation of the Authority, appoint an official manager of the business conducted under the licence.

(3) An appointment under subsection (1) or (2) may be terminated at any time by the Minister.

(4) The approved licensing agreement may contain provisions governing the basis on which the Minister's powers are to be exercised under this section.

**Amendment of s. 64—Powers of manager**

14. Section 64 of the principal Act is amended—

(a) by striking out paragraphs (a) and (b) of subsection (1) and substituting the following paragraphs:

- (a) is to assume control of the business conducted under the licence (or former licence); and
- (b) is entitled to possession and control of property of the licensee (or former licensee) used for the purposes of the business conducted under the licence; and

(b) by striking out paragraph (a) of subsection (2) and substituting the following paragraph:

- (a) first, a reasonable rental for the licensee's (or former licensee's) property is to be paid out of the proceeds to the licensee (or former licensee) while the property remains in the official manager's possession; and.

**Insertion of new Division 7**

15. The following heading and section are inserted in Part 7 after section 64 of the principal Act:

**DIVISION 7—ADMINISTRATORS, CONTROLLERS AND LIQUIDATORS****Administrators, controllers and liquidators**

64A. (1) If an administrator, controller or liquidator of the licensee assumes control over the casino business for a period (the **period of administration**) that person—

- (a) stands in the position of the licensee for the period of administration; and
- (b) is liable for the casino duty and other liabilities to the Crown accruing during the period of administration; and
- (c) is subject to this Act, and liable to direction and control under this Act, in the same way as if the person were the licensee; and
- (d) if charged with an offence against this Act, is entitled to a defence on proof that the offence was not committed intentionally and did not arise from the defendant's failure to take reasonable care to avoid the commission of the offence.

(2) For the purposes of subsection (1), an administrator, controller or liquidator will only be regarded as being in control of the casino business if in control of all or substantially all of the business assets associated with the operation of the casino.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor