

GAMING LAW REFORM BILL

EXPLANATORY NOTE

General Policy Statement

The Gaming Law Reform Bill is an omnibus Bill in 2 Parts. Approval for the omnibus nature of the Bill was given by the Business Committee of the House of Representatives on 4 August 1998 under Standing Order 259 (c). The Bill will be divided into 2 Bills at the Committee of the Whole stage in the House.

Part 1 addresses a range of issues relating to the licensing and regulation of casinos. *Part 2* provides for the more effective and transparent regulation of gaming machines outside casinos. Both respond to growing public concern about the effectiveness of legislation governing gambling opportunities.

PART 1

AMENDMENTS TO CASINO CONTROL ACT 1990

This Part of the Bill seeks to address a diverse range of concerns with the Casino Control Act 1990.

Background

There are currently 2 casinos operating in New Zealand. A further 4 applications for a casino premises licence have been made to the Casino Control Authority. The enactment of the Casino Control (Moratorium) Amendment Act 1997 has meant that no more applications can be considered by the Casino Control Authority until 15 October 2000.

Major Reforms

This Part of the Bill seeks to address a range of concerns relating to the licensing and regulation of casinos. It also contains a number of technical amendments relating to casino administration and operation.

The key amendments relate to changes to the criteria and processes for considering casino premises licence applications. These provisions reflect growing community concern that the public have little input into casino licensing decisions, and that the licensing criteria do not require sufficient weight to be given to social impacts.

The Bill also broadens the powers of the Casino Control Authority to regulate casinos in a more flexible and responsive manner. It seeks to make the processes for licensing casinos and determining licence conditions more transparent.

Furthermore, the Bill provides a new regime for dealing with concerns about access by problem gamblers to casinos, and clarifies that it is illegal for persons under the age of 20 to gamble in casinos.

Key Provisions

The key features of this Part of the Bill are as follows:

Casino Licensing

- the Casino Control Authority must invite and consider public submissions on casino premises licence applications:
- an integrated social and economic report must be provided to the Authority with the application:
- the Authority must make an assessment of the local, regional and national effects, including the cumulative effects, of a further casino:
- casinos can be licensed only where the positive social and economic effects outweigh the negative social and economic effects:

Increased Transparency and Accountability

- the Authority must publicly notify its casino licensing decisions and provide a copy of decisions to the Minister of Internal Affairs to present to the House of Representatives:
- the Authority must publicly notify possible changes to casino licence conditions and consider submissions from the public:

Improved Regulatory Provisions

- the Authority may set casino licence conditions on a wider range of issues than at present, and may add new conditions or amend conditions on its own initiative:
- the Authority may impose a money penalty of up to \$100,000 on casino operators for non-compliance with the Act or licence conditions:
- it is an offence for someone under the age of 20 to gamble in a casino. At present a person under 20 may not enter the casino, but the law is unclear on what happens if they gamble once inside:

Access for Problem Gamblers

- casino operators must adopt procedures for identifying, banning, and removing problem gamblers. Regulations may be made determining the grounds on which a person may be removed and any procedures for removing such persons:
- the grounds on which a person can be identified as a problem gambler are to be set out in regulations. The grounds might include that a person has voluntarily sought a self-banning order, or that family members have advised the casino that the person has a gambling problem.

PART 2

AMENDMENTS TO GAMING AND LOTTERIES ACT 1977

This Part of the Bill inserts a new Part into the Gaming and Lotteries Act 1977 for the regulation of gaming machines outside casinos, and makes consequential amendments.

Background

The existing system of regulation provided in the Gaming and Lotteries Act 1977 does not specifically deal with gaming machines outside casinos. This poses risks in terms of lack of certainty and transparency, inability to ensure profits are returned for community purposes, inability to respond to emerging issues such as

the link between gaming machines and problem gambling, and the possibility of a successful legal challenge of licensing decisions.

As a consequence, the Government proposes that, pending completion of the wider Gaming Review, the Gaming and Lotteries Act 1977 should be amended within the current objectives of the Act to establish a clear statutory regime for the regulation of gaming machines. The Bill will not pre-empt possible outcomes of the Gaming Review.

The current objectives of the Gaming and Lotteries Act 1977 are to permit the licensing of gaming activities for the raising of funds for community purposes whilst continuing to prohibit the conduct of such activities for commercial gain.

Purposes of the New Part

The purpose of the new Part is to:

- authorise the licensing and operation of gaming machines for the purpose of raising funds for authorised purposes:
- ensure that the proceeds of gaming machines are used for authorised purposes, while recognising that those who operate gaming machines are entitled to be reimbursed for the actual and reasonable costs associated with operating them:
- ensure that gaming machines are operated honestly:
- minimise the opportunities for fraud and misappropriation associated with the operation of gaming machines:
- make provision for minimising the negative social effects (including problem gambling) associated with gaming machine use.

Key Provisions

The Bill contains the following key features:

- clear criteria for the licensing and approval of societies and sites wishing to operate gaming machines:
- a power to impose licence conditions in a number of key areas, including the distribution of funds for community purposes, and the minimisation of the possibility of people developing problems with gambling as a result of playing gaming machines:
- the introduction of a minimum age of 18 years for persons playing gaming machines outside casinos:
- provisions relating to the distribution of funds when gaming machine societies cease operating gaming machines:
- a transparent mechanism for reaching decisions on, and implementing through regulations, limits on the maximum numbers of gaming machines per site, maximum stake, and maximum prize levels.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement. The Bill comes into force on 1 July 1999.

PART 1

AMENDMENTS TO CASINO CONTROL ACT 1990

Clause 2 provides that this Part is part of the Casino Control Act 1990.

Clause 3 amends the Title of the principal Act by omitting the paragraph referring to the promotion of the development of licensed casinos.

Clause 4 amends section 3, which defines “associated person”. The additions to the section enable the Authority to seek information to help it determine whether a particular individual is or is not an associated person, and gives the Authority power to treat the person as an associated person in the absence of satisfactory

evidence to the contrary. The Authority must issue guidelines on who is or is not an associated person.

Clause 5 amends section 5, which gives the object of the Act. Paragraph (a), which refers to promoting tourism, employment, and economic development generally, is replaced by a paragraph requiring that casinos be licensed only when they will result in a net benefit to the local and regional communities in which they are situated and to New Zealand generally.

Clause 6 repeals sections 28 to 32, and substitutes *new sections 28 to 32A*, which describe the process for applying for a casino premises licence and the grounds on which it can be granted.

New section 28 sets out the formal requirements for an application for a casino premises licence.

New section 29 requires the Authority to give public notice when it receives an application, and to call for applications for party status.

New section 30 describes the process the Authority must undertake before deciding on an application. This includes seeking further information on the application, if necessary, and calling for public submissions. Any person or organisation may make a submission and may appear and be heard at a hearing.

New section 31 lists the information, which includes written and oral submissions, that the Authority must take into account when deciding on an application.

New section 31A gives the basis for the decision on the casino premises licence application. The key requirement is that the Authority must be satisfied that the establishment and operation of the proposed casino will result in a net benefit to the local and regional communities in which it is situated and to New Zealand generally. There is a net benefit only if the expected positive social and economic effects outweigh the expected negative social and economic effects. The Authority is required to consider the cumulative effects of the proposal, and its effects locally, regionally, and nationally.

New section 31B requires that the casino premises licence be in the prescribed form.

New section 31c requires the Authority to give public notification of its decision on every application. The decision, with reasons, must be publicly available free of charge, and the Minister must present a copy of it to the House of Representatives.

New section 32 permits the Authority to impose conditions on a casino premises licence that relate to the achievement of the object of the Act, the efficient and effective administration of the Act, the approval and supervision of operating procedures, the completion and operation of the facilities, and opening times.

New section 32A clarifies that the new sections do not apply to applications received before 16 October 1997 (the date of the commencement of the moratorium on receiving applications).

Clause 7 amends section 34, which deals with renewals of casino premises licences. It provides that an application for renewal must go through the same process as an initial application and be determined on the same grounds.

Clause 8 amends section 38, which allows the Authority to impose conditions on a casino operator's licence. Two new grounds for imposing conditions are added, namely the achievement of the object of the Act and the efficient and effective administration of the Act.

Clause 9 amends section 43, which allows the Authority to impose further conditions on the licences of parties to a casino agreement. The amendment adds the same 2 new grounds as are added to section 38.

Clause 10 substitutes a *new section 46* and inserts a *new section 46A*.

New section 46 allows the Authority to vary, revoke, or add to conditions of a licence. Under the new provision, a variation, revocation, or addition may be initiated by the Authority, as well as by the licence holder.

New section 46A sets out the procedure when a variation, revocation, or addition is proposed. Proposals must be publicly notified, and the Authority must consider any submissions received. Decisions on proposals must be publicly notified and made available free of charge.

Clause 11 substitutes a *new section 48* and inserts *new sections 48A and 48B*.

New section 48 restates the existing requirements that the Authority must give approval for a person to become an associated person, and must give approval before an associated person accepts a new relevant position or acquires a new or greater power.

New section 48A provides for the Authority to give a retrospective approval if the failure to apply for prior approval was inadvertent or otherwise excusable. A retrospective approval may be subject to conditions. An application for retrospective approval saves any contract, arrangement, or transaction from being void under *section 48* for failure to receive prior approval.

New section 48B sets out the substantive grounds on which approval under *section 48* or *section 48A* is given.

Clause 12 amends section 52, which is the provision listing the categories of casino employees who are required to be approved. People employed solely as waiting staff are exempt from the requirement to be approved, subject to any regulations to the contrary.

Clause 13 effects a correction to section 55 (1) by changing a reference to the Authority to a reference to the Secretary.

Clause 14 amends section 63 so that the Authority no longer has to publish the rules of games in the *Gazette*, but must instead give a notice that the rules have been made (or amended) and say where the rules may be viewed.

Clauses 15 and 16 amend incorrect references to the Trespass Act 1980.

Clause 17 inserts a *new Part 4A* dealing with problem gamblers.

New section 75A describes the object of the Part as being to ensure that access to casinos by problem gamblers is restricted.

New section 75B defines “problem gambler” for the purpose of the Part and any regulations made under it. A problem gambler is someone who is identified, using a prescribed procedure, as someone whose gambling is causing harm or distress to the person or his or her family.

New section 75C requires casino operators to—

- adopt a procedure for identifying who is a problem gambler. One or more procedures will be prescribed in regulations:
- ban identified problem gamblers from entering the casino. A banning order may last up to 3 years, and the procedure for issuing it will be set out in regulations:
- remove suspected problem gamblers. The casino operator may require the person, as a condition of re-entry, to participate in a prescribed procedure for identifying whether or not he or she is a problem gambler.

New section 75D creates offences of breaching a banning order and of re-entering the casino in breach of a condition of re-entry.

New section 75E is a regulation-making power authorising regulations to be made concerning problem gamblers.

Clause 18 amends section 90 by adding 2 new grounds on which the Authority can impose a penalty on a casino licence holder. The new grounds are—

- failing to adopt a procedure for identifying problem gamblers:
- failing to pay a money penalty imposed under section 91.

The penalty for these offences is the general penalty provided for in section 12.

Clause 19 amends section 91, which deals with the penalties that the Authority may impose on a casino licence holder. It adds a new penalty, namely the imposition of a money penalty of up to \$100,000.

Clause 20 inserts a *new section 91A*, which requires the Authority to make policies on when and how money penalties will be imposed, and sets out how notice of the policies is to be given.

Clause 21 amends section 95 to provide that appeals against the imposition of money penalties and orders about licence conditions are heard in the District Court. Appeals against the suspension or cancellation of a licence are heard in the High Court.

Clause 22 repeals section 96 and substitutes a new provision allowing appeals from the District Court to be heard in the High Court.

Clause 23 consequentially amends section 97.

Clause 24 inserts a *new section 105A*, which makes it an offence for a person under the age of 20 to place a wager on a game in the gaming area of a casino. If a person under 20 gambles and wins, the winnings may be taken from the person before he or she leaves the casino, or, on conviction for the offence, an order may be made for their return.

PART 2

AMENDMENTS TO GAMING AND LOTTERIES ACT 1977

Clause 25 provides that this Part is part of the Gaming and Lotteries Act 1977.

Clause 26 amends section 2, the interpretation section. It amends the definition of “gaming machine” so that each terminal of a multi-terminal machine counts as a gaming machine. It also makes some minor consequential amendments.

Clause 27 amends the definition of “illegal game of chance” in section 3, as it relates to games of chance played by way of a gaming machine. The amendments are consequential on moving the provisions relating to licensing from section 8 to *new Part 1A*, but also include a provision that means that a game of chance played by way of a gaming machine that does not comply with minimum standards issued under *new Part 1A* is an illegal game of chance.

Clause 28 amends section 8 so that a licence for a game of chance conducted by way of a gaming machine must be granted under *new Part 1A*, not under section 8.

Clause 29 repeals section 8A.

Clause 30 amends section 8B so that regulations about gaming machines must be made under *new Part 1A*, not under section 8B.

Clause 31 consequentially amends section 11.

Clause 32 inserts a new *Part 1A*, which deals with gaming machines.

New section 11A gives the purpose of the Part.

New section 11B is the interpretation section for the Part. It includes definitions of key terms such as “approved person”, “fundraiser licence”, “gaming machine society”, “net proceeds”, “site agreement”, “site approval”, and “site manager”.

New section 11c states the basic rule that gaming machines may be operated only in accordance with a fundraiser licence and a site approval.

New section 11D sets out the formal requirements for applying for a fundraiser licence and a site approval. An applicant must be a body corporate that is established and conducted entirely for a purpose other than a commercial one. If granted a fundraiser licence, this body will be a “gaming machine society”.

New section 11E authorises the Secretary to carry out investigations on applicants for fundraiser licences or site approvals.

New section 11F authorises the Secretary to grant fundraiser licences, and sets out the grounds for doing so. These include grounds relating to the applicant’s purpose in operating gaming machines (it must be to raise money for authorised purposes), and the suitability of the applicant. Suitability is determined on the basis of the applicant’s honesty, financial position, and history of dealings with gaming matters.

New section 11G sets out what a fundraiser licence must include. It provides for the Secretary to add conditions to a licence, and to add to or vary those conditions at any time.

New section 11H authorises the Secretary to grant site approvals in respect of places where gaming machines may be operated. The grounds on which approvals may be granted are that the Secretary is satisfied that the site is such that the possibility of people under 18 having access to machines is kept to a minimum; that the site manager is suitable; and that the site agreement (between the gaming machine society and the owner or occupier of the site) enables the machines to be operated in accordance with the Act, any regulations, and the licence and approval. The suitability of the site manager is determined on the basis of his or her honesty and history of dealings with gaming matters.

New section 11I says what a site approval must include, and allows the Secretary to add conditions to the approval, and to vary or add to those conditions at any time.

New section 11J sets out how fundraiser licences and site approvals may be renewed. (This will usually be required annually.) The process, and the basis for granting renewals, is the same as the process and basis for granting the initial licence or approval. However, if the Secretary proposes not to renew, he or she must follow the procedures prescribed for when a licence or approval is proposed to be suspended or cancelled.

New section 11K gives the consequence of an application for renewal, which is that the licence or approval continues in force beyond its expiry date until the application is determined.

New section 11L gives the grounds on which the Secretary can suspend or cancel a fundraiser licence. These are basically that the gaming machine society is no longer suitable, or is not complying with the Act, any regulations, or the licence.

New section 11M gives the grounds for suspending or cancelling a site approval, which are similar to those for suspending or cancelling a fundraiser licence.

New section 11N sets out the procedure to be followed if the Secretary proposes to suspend or cancel a licence or approval. The gaming machine society must be advised of the proposal and given an opportunity to respond.

New section 11o sets out the consequences of suspension and cancellation. If a licence is suspended or cancelled, the obligations under it to report on and distribute proceeds are not affected. A suspension or cancellation does not take effect until the appeal period has expired. If a fundraiser licence is suspended or cancelled, every site approval held by the gaming machine society is also suspended or cancelled.

New section 11p provides for a gaming machine society to seek a review by the Minister of a decision to suspend or cancel a fundraiser licence or site approval.

New section 11q gives the consequence of applying for a review, which is that the licence or approval continues in force pending the outcome of the review.

New section 11r provides for the surrender of fundraiser licences and site approvals.

New section 11s provides that a gaming machine society may apply to the Secretary for an amendment to its fundraiser licence or any of its site approvals, and the Secretary may make the amendment.

New section 11t requires a gaming machine society to notify the Secretary if a new person becomes an associated person, or a new site manager is appointed, or a change is made to the site agreement.

New section 11u provides that if a gaming machine society changes its governing instrument in certain ways without the consent of the Secretary, then the change is of no effect for any purpose associated with this Part. The relevant changes to the governing instrument relate to the society's purpose, and to the distribution of assets on winding-up.

New section 11v requires that gaming machine societies distribute the net proceeds from gaming machines for authorised purposes, and creates various offences relating to a failure to do so. On conviction, the society's licence must be cancelled, and the Court may make orders relating to the recovery and distribution of the funds.

New section 11w requires that if a gaming machine society ceases to operate gaming machines it must distribute the net proceeds within 20 days. The Secretary may apply to the Court for orders relating to the recovery and distribution of the funds.

New section 11x makes it an offence of any person under 18 to play a gaming machine. It is also an offence for the gaming machine society, and for the site manager, to permit someone under 18 to play. Various defences are provided.

New section 11y provides that if any member of the Police suspects on reasonable grounds that a person under the age of 18 is playing, or has been playing, gaming machines, he or she may require a person to give his or her name, address, and age.

New section 11z requires that all gaming equipment operated by a gaming machine society must conform to all relevant minimum standards for the design, manufacture, and performance of gaming equipment.

New section 11za provides for the Secretary to prescribe minimum standards and give notice of them in the *Gazette*.

New section 11zb provides for the Secretary to issue standard forms for any purpose specified in this Part (eg, application forms).

New section 11zc is the regulation-making power authorising the Governor-General to make regulations relating to gaming machines.

Clause 33 amends section 108 by changing the date, from 1 March to 1 June, on which the New Zealand Lotteries Commission must submit its annual estimates.

Clauses 34 to 40 make consequential amendments to the principal Act.

Clause 41 makes a consequential amendment to the Racing Act 1971.

Clause 42 provides for transitional arrangements relating to licences.

Clause 43 provides for a 3-year transitional period during which gaming equipment approved before the commencement of the Act is deemed to comply with all relevant minimum standards prescribed under *new section 11ZA*.

Hon Jack Elder

GAMING LAW REFORM

ANALYSIS

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3. Title amended	
4. Meaning of "associated person"	
5. Object of Act	
6. New heading and sections substituted	
<i>Applications for Casino Premises Licence</i>	
28. Application for casino premises licence	46A. Procedure when licence conditions varied, revoked, or added to
29. Public notification of casino premises licence application	11. New sections substituted
30. Process for determining casino premises licence application	48. Change of associated person, etc, must receive prior approval of Authority
31. Information and matters to be taken into consideration	48A. Authority may grant retrospective approval
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PART 2
AMENDMENTS TO GAMING AND LOTTERIES
ACT 1977

- 25. Part to be part of Gaming and Lotteries Act 1977
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- 28. Minister may grant licences to conduct games of chance
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PART 1A
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- 11A. Purpose

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- 11C. Gaming machines may be operated only under licence
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- 11E. Secretary may carry out investigations
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- 11G. Content and conditions of fundraiser licence
- 11H. Grounds on which Secretary may grant site approval
- 11I. Content and conditions of site approval
- 11J. Application for renewal of fundraiser licence or site approval
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Suspension and Cancellation of Fundraiser Licence or Site Approval

- 11L. Grounds for suspending or cancelling fundraiser licence
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- 11O. Consequences of suspension or cancellation of fundraiser licence or site approval
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- 11S. Amendment of fundraiser licence and site approval on application by society
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- 11V. Distribution of funds
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- 11X. People under 18 not to play gaming machines
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- 11Z. Gaming equipment to conform to minimum standards
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Standard Forms and Regulations

- 11ZB. Secretary may issue standard forms
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- 33. Estimates of income and expenditure
- 34. Interpretation
- 35. Process for determining levy
- 36. Additional levies
- 37. Refunds of levies
- 38. Payment of levy requirement of licence
- 39. Transitional provisions for 1996/97 financial year
- 40. Powers of inspectors
- 41. Consequential amendment to Racing Act 1971
- 42. Transitional arrangements relating to licences
- 43. Transitional arrangements relating to gaming equipment

A BILL INTITULED

An Act to—

- (a) Amend the Casino Control Act 1990 in relation to casino licensing and other matters; and
- 5 (b) Amend the Gaming and Lotteries Act 1977 in relation to gaming machines

BE IT ENACTED by the Parliament of New Zealand as follows:

- 1. **Short Title and commencement**—(1) This Act may be cited as the Gaming Law Reform Act 1998.
- 10 (2) This Act comes into force on 1 July 1999.

PART 1

AMENDMENTS TO CASINO CONTROL ACT 1990

- 2. **Part to be part of Casino Control Act 1990**—This Part is part of the Casino Control Act 1990* (in this Part referred to as the principal Act).
- 15

*1990, No. 62
Amendment: 1997, No. 110

- 3. **Title amended**—The Title of the principal Act is amended by repealing paragraph (b).
- 4. **Meaning of “associated person”**—Section 3 of the principal Act is amended by adding the following subsections:
 - 20 “(3) If the Authority believes on reasonable grounds that a particular person may be an associated person, the Authority may ask the person, and the relevant casino licence holder, to provide information to the Authority to assist it to determine whether or not the person is an associated person.
 - 25 “(4) If the person or casino licence holder does not provide, within one month, information that satisfies the Authority that the person is not an associated person, the Authority may treat the person as an associated person.
 - 30 “(5) The Authority must develop guidelines, consistent with this section, on who is or is not an associated person. The guidelines may be amended from time to time, and both the guidelines and any amendments to them must be notified in the *Gazette* and a copy must be provided to each casino licence holder.”
- 35 5. **Object of Act**—Section 5 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Ensuring that casinos are licensed only when they will result in a net benefit to the local and regional communities in which they are situated and to New Zealand generally; and”.

6. New heading and sections substituted—The principal Act is amended by repealing sections 28 to 32, and substituting the following heading and sections: 5

“Applications for Casino Premises Licence

“28. Application for casino premises licence—(1) An application for a casino premises licence must— 10

“(a) Be made to the Authority; and

“(b) Be in the prescribed form and contain the prescribed particulars; and

“(c) Have a casino impact report attached; and

“(d) Be accompanied by the prescribed fee. 15

“(2) The casino impact report must deal with the expected social and economic effects of the proposed casino, and must address any additional or specific matters that the Authority may specify.

“29. Public notification of casino premises licence application—(1) Within one month of receiving a casino premises licence application, the Authority must publicly notify the application and invite applications for party status. 20

“(2) Public notification may be done in whatever way the Authority considers will best inform the public of the matter to be notified, but it must include publishing, at least twice in a two-week period, an advertisement in at least one daily newspaper circulating in the area. 25

“(3) The notification must, without limitation,—

“(a) Say who the applicant is; and 30

“(b) Describe the location of the proposed casino; and

“(c) Give a general description of the proposal; and

“(d) Describe, in broad terms, the process to be undertaken by the Authority in determining the application.

“(4) Any person or organisation may apply for party status. 35

“30. Process for determining casino premises licence application—(1) Before undertaking public consultation on the application, the Authority must obtain further information or reports, or undertake any other preliminary work, that it considers necessary to ensure that the application, and the implications of the application, will be understood by the public. 40

“(2) The Authority must commence public consultation by giving public notice of the application, in accordance with **section 29 (2)**.

“(3) The notification must—

5 “(a) Repeat the matters (amended as necessary) specified in **section 29 (3)**; and

“(b) Invite submissions on the application; and

10 “(c) Advise where the application (including any amendments to it) and any reports on the application may be viewed, and how copies may be obtained; and

“(d) Give the basis, as set out in **section 31A**, on which the Authority must make its determination.

15 “(4) Any person or organisation may make a submission on an application for a casino premises licence.

20 “(5) Any person or organisation that has made a submission on an application may appear and be heard at a hearing at which submissions are considered, but, despite section 11, no submissioner (other than a party) may call, examine, or cross-examine any witness.

“**31. Information and matters to be taken into consideration**—Before determining an application for a casino premises licence, the Authority must consider—

25 “(a) The application, the casino impact report, and any additional information or evidence supplied to the Authority by the applicant at the request of the Authority; and

“(b) The written submissions and other written and oral evidence; and

30 “(c) The result of any poll conducted by a local authority to gauge the level of support of the local community for the proposed casino; and

“(d) The results of the Authority’s own investigations, and any reports commissioned by it.

35 “**31A. Basis for determining casino premises licence application**—(1) The Authority may grant a casino premises licence only if it is satisfied that—

40 “(a) The establishment and operation of the proposed casino will result in a net benefit to the local and regional communities in which it is situated and to New Zealand generally; and

“(b) The applicant is a suitable person to be granted the licence.

- “(2) The Authority is satisfied, for the purposes of **subsection (1) (a)**, only if it determines that the expected positive social and economic effects will outweigh the expected negative social and economic effects of establishing and operating the proposed casino. 5
- “(3) In assessing whether or not there is a net benefit from the proposed casino, the Authority must consider—
- “(a) The cumulative effects of the additional gaming opportunities presented by the proposed casino, when added to the existing available gaming opportunities; and 10
- “(b) The effects of the proposal on the local and regional communities in which the proposed casino will be situated and on New Zealand generally.
- “**31B. Casino premises licence to be in prescribed form**—A casino premises licence must be in the prescribed form. 15
- “**31C. Public notification of decision on casino premises licence application**—(1) The Authority must make a copy of its decision on a casino premises licence application available to the public within one month of determining whether or not to grant the application. 20
- “(2) The decision must set out—
- “(a) The process undertaken by the Authority in determining the application; and 25
- “(b) A description of the information, or the sources of the information, relied on by the Authority making that determination; and
- “(c) The positive social and economic effects, and the negative social and economic effects, that the Authority considered likely to result from the establishment and operation of the proposed casino; and 30
- “(d) Any conditions attaching to the licence (if a licence is granted); and 35
- “(e) Any other information that the Authority considers affected or explains its decision.
- “(3) The Authority may refrain from including in its decision any material the release of which might jeopardize the security of the casino or the safety of any person, or that is commercially sensitive, or that is otherwise subject to a confidentiality agreement. 40
- “(4) The Authority must make the decision available free of charge, and must notify the public, in whatever way it

considers appropriate, of how copies of the decision can be obtained.

5 “(5) The Authority must send a copy of the decision to the Minister, who must present it to the House of Representatives within 6 sitting days of receiving it.

“**32. Conditions of casino premises licence**—On granting a casino premises licence, the Authority may impose any conditions on the licence that are not inconsistent with this Act, and that relate to—

10 “(a) The achievement of the object of this Act:

“(b) The efficient and effective administration of this Act:

“(c) The approval and supervision of operating procedures for the proposed casino, including the matters specified in the Second Schedule:

15 “(d) The times when the casino may be open:

“(e) The completion and operation of the facilities that the applicant has undertaken, in support of the application, to provide in, or in conjunction with, the proposed casino.

20 “**32A. Application of sections 28 to 32**—(1) Nothing in sections 28 to 32 applies to any application for a casino licence that was received by the Casino Control Authority before 16 October 1997.

25 “(2) Applications for a casino licence that were received before 16 October 1997 must be dealt with in accordance with sections 28 to 32 of this Act as they were before their repeal by section 6 of the **Gaming Law Reform Act 1998**.”

30 **7. Renewal of casino premises licence**—Section 34 of the principal Act is amended by repealing subsections (3) and (4), and substituting the following subsections:

“(3) An application for a renewal of a casino premises licence must be made in the same form, and contain the same particulars, as it would if it were an application for a licence under **section 28**.

35 “(4) The Authority must consider, and must apply the same procedures to, an application for renewal as it would if it were an application for a casino premises licence.”

40 **8. Conditions of casino operator’s licence**—The principal Act is amended by repealing section 38, and substituting the following section:

“38. On granting a casino operator’s licence, the Authority may impose any conditions on the licence that are not inconsistent with this Act, and that relate to—

- “(a) The achievement of the object of this Act:
- “(b) The efficient and effective administration of this Act: 5
- “(c) The approval and supervision of operating procedures for the proposed casino, including the matters specified in the Second Schedule:
- “(d) The times when the casino may be open.”

9. Further licence conditions—The principal Act is amended by repealing section 43, and substituting the following section: 10

“43. (1) On granting an approval under section 42, the Authority may add to the conditions of the licence of either party to the agreement. 15

“(2) A condition added under **subsection (1)** must not be inconsistent with this Act or with any existing condition of the licence, and must relate to—

- “(a) The achievement of the object of this Act:
- “(b) The efficient and effective administration of this Act: 20
- “(c) The approval and supervision of operating procedures for the proposed casino, including the matters specified in the Second Schedule.”

10. New sections substituted—The principal Act is amended by repealing section 46, and substituting the following sections: 25

“46. Authority may vary, revoke, or add to licence conditions—(1) The Authority may at any time vary, revoke, or add to the conditions of a casino premises licence or an operator’s licence. 30

“(2) The variations, revocations, or additions must relate to—

- “(a) The achievement of the object of this Act:
- “(b) The efficient and effective administration of this Act:
- “(c) The approval and supervision of operating procedures for the proposed casino, including the matters specified in the Second Schedule. 35

“(3) A variation, revocation, or addition may be initiated by—

- “(a) The Authority; or
- “(b) The holder of the licence, in which case the holder must apply in the prescribed form and enclose the prescribed fee. 40

“46A. Procedure when licence conditions varied, revoked, or added to—(1) If the Authority proposes, under **section 43 or section 46**, to vary, revoke, or add to the conditions of a casino premises licence or an operator’s licence, it must—

5 “(a) Publicly notify the proposal in the manner specified in **section 29 (2)**; and

“(b) Give written notice of the proposal to the licence holder (unless the proposal was initiated by the licence holder); and

10 “(c) Give written notice of the proposal to any other licence holder with which the licence holder is associated in the operation of the casino.

“**(2)** Before coming to a decision on whether to vary or revoke a licence condition, or add further conditions, the Authority must consider any submissions received from any person or organisation, and any comment or submission made by the holder of the licence and any associated licence holder.

“**(3)** If the Authority holds a hearing on the proposal, **section 30 (5)** applies.

20 “**(4)** The Authority must publicly notify, in accordance with **section 29 (2)**, any decision to vary or revoke any existing condition, or to add further conditions, and must give written notice of the decision to the licence holder and any associated licence holder.

25 “**(5)** The Authority must make copies of any decision under this section available free of charge.”

11. New sections substituted—The principal Act is amended by repealing section 48, and substituting the following sections:

30 “**48. Change of associated person, etc, must receive prior approval of Authority—**(1) The Authority must give approval before—

“**(a)** Any person becomes an associated person; or

35 “**(b)** Any associated person accepts a new relevant position; or

“**(c)** Any associated person acquires a new or greater influence over, or with respect to, the management or operation of the casino than the person had on the last occasion when the Authority approved that person under this section.

40 “**(2)** If the Authority has not given approval as required by this section, any contract, arrangement, or transaction is void to the extent that it has the effect of—

“(a) Making a person an associated person; or

“(b) Giving an associated person a new relevant position; or

“(c) Giving an associated person a new or greater influence.

“48A. **Authority may grant retrospective approval**—(1) 5
Despite **section 48**, on application by the holder of a casino licence, the Authority may grant a retrospective approval for a person to be an associated person, or for an associated person to hold a new relevant position or exert a new or greater influence.

“(2) The Authority may not consider an application for a 10
retrospective approval unless the Authority is satisfied that the failure to apply for prior approval was inadvertent or otherwise excusable.

“(3) A retrospective approval may be subject to any 15
conditions that the Authority believes desirable to promote the objects of this Act, having regard to the interests of the licensee, the vendor (if any), and any other affected parties.

“(4) The conditions of a retrospective approval may include, 20
without limitation, conditions—

“(a) Requiring that a specified person not occupy a particular 20
relevant position, or exercise particular relevant powers:

“(b) Requiring the disposal of a specified relevant financial 25
interest within a specified time and in a specified manner.

“(5) If a holder of a casino licence has applied for a 30
retrospective approval in respect of a contact, arrangement, or transaction, then **section 48 (2)** does not apply as long as the licence holder has not received notice that the Authority has declined the application, or has declined to consider the application.

“48B. **Process and grounds for approval of change of 35
associated person, etc**—(1) An application for approval under **section 48 or section 48A** must be made in writing by the holder of a casino licence.

“(2) On receipt of an application, the Authority must cause 35
to be undertaken whatever investigations it considers necessary to enable it to make its decision.

“(3) The Authority must give approval if it is satisfied, having 40
regard to the suitability requirements, that,—

“(a) In the case of an approval for a person to be an 40
associated person, the person is a suitable person to be an associated person; and

“(b) In the case of an approval for an associated person to accept or hold a new relevant position, the person is a suitable person to hold that position; and

5 “(c) In the case of an approval for an associated person to exert a new or greater influence over, or with respect to, the management or operation of the casino, the person is a suitable person to exert that new or greater influence.”

12. Certain casino employees to be approved—

10 Section 52 of the principal Act is amended by adding the following subsections:

“(4) People who are employed solely as waiting or restaurant staff at a casino are not required to hold certificates of approval issued under this Part.

15 “(5) **Subsection (4)** applies despite subsections (1) and (3), but subject to any regulations made in accordance with subsection (2).”

13. Consideration of application—Section 55 (1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

20 “(c) Any other relevant matters raised in the Police report submitted to the Secretary under section 54.”

14. Authorised games—(1) Section 63 (1) of the principal Act is amended by omitting the words “by notice in the *Gazette*,”.

25 (2) Section 63 of the principal Act is amended by adding the following subsections:

“(3) The Authority must publish a notice in the *Gazette* that—

30 “(a) Names the game or games for which rules have been prescribed or amended; and

“(b) Gives the date on which the rules come into force; and

“(c) Describes where, in addition to each casino, the rules may be viewed.

35 “(4) Rules, or amendments to rules, may not come into force until after the date on which the notice is published in the *Gazette*.”

15. Entry to and exclusion of entry from casino—

40 Section 67 (2) of the principal Act is amended by omitting the expression “1982”, and substituting the expression “1980”.

16. Regulation of admission to casino—Section 68 (3) of the principal Act is amended by omitting the expression “1982”, and substituting the expression “1980”.

17. New Part 4A inserted—The principal Act is amended by inserting, after Part IV, the following Part:

5

“PART 4A

“PROBLEM GAMBLERS

“75A. **Object of Part**—The object of this Part is to ensure that access to casinos by problem gamblers is restricted.

“75B. **Definition of ‘problem gambler’**—In this Part, and in any regulations made under **section 75E**, the term ‘problem gambler’ means a person who is identified using a procedure prescribed in regulations made under **section 75E** as being a person whose gambling is causing harm or distress to the person or to the person’s family.

10

15

“75C. **Casino operators to identify, ban, and remove problem gamblers**—(1) Every licensed casino operator must, by notice in writing to the Authority, adopt a procedure prescribed in regulations made under **section 75E** for identifying problem gamblers.

20

“(2) A licensed casino operator must prohibit every identified problem gambler from entering the casino within a specified period of up to 3 years by issuing the person with a banning order in accordance with regulations made under **section 75E**.

“(3) A licensed casino operator must remove from the premises any person whom it has reasonable grounds to believe may be a problem gambler, and may require the person, as a condition of re-entry, to participate in a procedure prescribed in regulations made under **section 75E** for identifying problem gamblers.

30

“75D. **Offence to be in casino in breach of banning order or condition of re-entry**—A person commits an offence if he or she enters a casino—

“(a) In breach of a banning order issued under **section 75c (2)**; or

“(b) In breach of a condition on re-entry imposed under **section 75c (3)**.

35

“75E. **Regulations relating to problem gamblers**—(1) The Governor-General may from time to time, by Order in Council, make regulations for any or all of the following purposes:

40

- “(a) Prescribing one or more procedures to enable licensed casino operators to identify problem gamblers. Any such regulations must—
- 5 “(i) Specify the grounds on which a person may be identified as a problem gambler; and
- “(ii) Set out the steps to be taken to identify a person as a problem gambler; and
- “(iii) Prescribe the people who are authorised to perform specific functions in relation to identifying
- 10 problem gamblers, or prescribe the qualifications of such people; and
- “(iv) Set out the rights, including rights of appeal against specified decisions, of any person subject to the procedure:
- 15 “(b) Prescribing a banning procedure for prohibiting identified problem gamblers from entering a casino. Any such regulations must set out the rights of appeal of any person subject to the procedure:
- “(c) Prescribing procedures relating to the removal of people whom a licensed casino operator has reasonable
- 20 grounds to believe may be a problem gambler:
- “(d) Ensuring that access to casinos by identified problem gamblers is restricted.
- “(2) Without limiting **subsection (1)**, regulations made under this
- 25 section may—
- “(a) Authorise licensed casino operators to confirm to other licensed casino operators whether or not a particular person has been banned from the casino, and if so, for what period; and
- 30 “(b) Authorise the Authority, in relation to the identification, banning, or removal from a casino, of problem gamblers, to—
- “(i) Require licensed casino operators to provide statistical information about problem gamblers
- 35 identified, banned, or removed from the casino; and
- “(ii) Prescribe forms to be used by licensed casino operators.”

18. Grounds for imposing penalty on holder of casino licence—(1) Section 90 of the principal Act is amended by

40 omitting the words “cancellation or suspension of a casino licence”, and substituting the words “imposing a penalty under section 91 on a holder of a casino licence”.

(2) Section 90 (e) of the principal Act is amended by repealing subparagraphs (ii) and (iii), and substituting the following subparagraphs:

“(ii) Fails to comply with any of the provisions of sections 69, 71, 72, or 75c (1); or 5

“(iii) Fails to comply with any direction given to the holder in writing by the Authority under section 70; or

“(iv) Fails to pay any money penalty under section 91 within 10 working days of the expiry of any period within which an appeal may be lodged against a decision relating to the imposition of the money penalty.”. 10

19. Imposition of penalties—(1) Section 91 of the principal Act is amended by repealing subsection (1), and substituting the following subsection: 15

“(1) A member of the Police or an inspector may at any time, in respect of any casino licence, apply to the Authority in accordance with this section for an order imposing a penalty on a casino licensee.” 20

(2) Section 91 (3) of the principal Act is amended by omitting the words “the suspension or cancellation of a casino licence”, and substituting the words “imposing a penalty”.

(3) Section 91 of the principal Act is amended by repealing subsections (6) to (8), and substituting the following subsections: 25

“(6) If the Authority is satisfied, at the conclusion of proceedings, that any ground in section 90 is established, the Authority may discharge the application, or may make an order imposing one or more of the penalties in **subsection (7)**.

“(7) The penalties that may be imposed are,— 30

“(a) In respect of any ground specified in section 90, an order—

“(i) Varying or revoking any condition of the licence, or imposing any new condition:

“(ii) Suspending the licence: 35

“(iii) Cancelling the licence:

“(b) In respect of any ground specified in paragraph (c), (e), or (f) of section 90, imposing a money penalty of up to \$100,000, which may be imposed in addition, or as an alternative, to any penalty imposed under **paragraph (a)**. 40

“(8) The Authority may impose a money penalty only in accordance with a policy made under **section 91A** that was in force when the ground giving rise to the penalty first arose.

“(8A) The casino licence holder must pay any money penalty to the Authority, which must deposit the money into any account under the Public Finance Act 1989 specified by the Minister of Finance.”

5 **20. Authority to make policy on imposition of money penalties**—The principal Act is amended by inserting, after section 91, the following section:

“91A. (1) The Authority must make and set out the policy to be applied when imposing a money penalty under **section 91 (6)**.

10 The policy must, without limitation,—

“**(a)** Identify the range of penalty that may be imposed in respect of particular grounds; and

“**(b)** Identify the matters to be taken into account when determining the amount of money penalty to be imposed in any particular case, including such matters as the seriousness of the case, whether prior warnings have been given, and whether a penalty has previously been imposed on the licence holder on the same ground.

15 “(2) The Authority may from time to time amend a policy under this section.

20 “(3) The Authority must publish a notice in the *Gazette* that—

25 “**(a)** States that the Authority has set out a policy (or an amendment to a policy) relating to the imposition of money penalties; and

“**(b)** Gives the date on which the policy comes into force, which must be a date after the date on which the notice is published in the *Gazette*.

30 “(4) The Authority must provide every casino licence holder with a copy of every policy, and every amendment, on or before the date on which notice is published in the *Gazette*.”

35 **21. Appeals to High Court or District Court against decisions of Authority**—(1) Section 95 of the principal Act is amended by repealing subsections (1) to (3), and substituting the following subsections:

“**(1)** A casino licence holder may appeal to the appropriate court against—

40 “**(a)** A direction under section 74 (9) (b) to terminate an agreement between it and another licence holder; and

“**(b)** An order under **section 91 (6)**.

“**(2)** In this section, ‘appropriate court’ means—

- “(a) A District Court, in the case of an appeal against—
- “(i) An order varying or revoking any condition of a licence, or adding any new condition; or
 - “(ii) An order imposing a money penalty; and
- “(b) The High Court, in the case of an appeal against—
- “(i) A direction under section 74 (9)(b) to terminate an agreement; or
 - “(ii) An order suspending or cancelling a licence; or
 - “(iii) An order suspending or cancelling a licence and imposing a money penalty.

“(3) An appeal must be by way of written notice lodged at the appropriate court within 10 days of receiving notice of the direction or order.”

(2) Section 95 (6) of the principal Act is amended by inserting, before the first word, the words “In the case of an appeal to the High Court against an order under section 91,”.

(3) Section 95 of the principal Act is amended by omitting from subsections (7) to (10), and from subsections (12) to (14), the words “High Court” in each place where they appear, and substituting in each case the words “appropriate court”.

22. Further appeal to High Court—The principal Act is amended by repealing section 96, and substituting the following section:

“96. (1) Any party to an appeal to the District Court under section 95 who is dissatisfied with the determination of the District Court on any point of law may, with the leave of the District Court or (if that leave is declined) with special leave of the High Court, appeal to the High Court against that determination.

“(2) Subsections (2) to (4), (6), and (7) of section 97 apply to an appeal under this section as if references in those subsections to the High Court were references to a District Court, and as if references to the Court of Appeal were references to the High Court.”

23. Further appeal to Court of Appeal—Section 97 (1) of the principal Act is amended by inserting, after the words “to an appeal”, the words “to the High Court”.

24. Offence for minors to gamble in casino—The principal Act is amended by inserting, after section 105, the following section:

“105A. (1) Every person commits an offence and is liable to a fine not exceeding \$500 who, being under the age of 20 years, places a wager on any game in the gaming area of a casino.

5 “(2) If a person who is under the age of 20 years wins any money as a result of placing a wager on a game in the gaming area of a casino, the casino premises licence holder may refuse to pay out the winnings to the person, and the money is forfeited to the licence holder.

10 “(3) If a person is convicted under **subsection (1)**, the Court may, in addition to any penalty imposed under that subsection, order the return to the casino premises licence holder of the value of any winnings that may have been paid to the person as a result of placing a wager in the gaming area of the casino.

15 “(4) The holder of a casino operator’s licence must notify the Authority if it receives any money that is forfeited under **subsection (2)**, or returned under **subsection (3)**, and must dispose of the money in accordance with the directions of the Authority.”

PART 2

AMENDMENTS TO GAMING AND LOTTERIES ACT 1977

20 **25. Part to be part of Gaming and Lotteries Act 1977—**
This Part is part of the Gaming and Lotteries Act 1977* (in this Part referred to as the principal Act).

*R.S. Vol. 33, p. 17
Amendments: 1996, Nos. 125, 158

25 **26. Interpretation—**(1) Section 2 (1) of the principal Act is amended by inserting in the definition of the term “gaming machine”, after paragraph (a), the following paragraph:

30 “(aa) Includes each individual player station or terminal in a multi-terminal machine or device with a central controlling facility, where each player station or terminal allows a player to participate in or play a game of chance, instant game, lottery, or prize competition; and”.

(2) Section 2 (1) of the principal Act is amended by repealing paragraph (b) of the definition of the term “society”, and substituting the following paragraph:

35 “(b) In Part VIIA, a gaming machine society as defined in **section 11B**.”.

(3) Section 2 (3)(a) of the principal Act is amended by omitting the words “section 8 or section 9 of this Act”, and substituting the words “section 8, section 9, or **Part 1A**”.

27. Meaning of “illegal game of chance”—Section 3 (3) of the principal Act is amended by adding to the end of paragraph (b) the expression “; or”, and by adding the following paragraph:

“(c) It is a game of chance played by way of a gaming machine— 5

“(i) That is operated under, and in accordance with, a fundraiser licence granted under **Part 1A**; and

“(ii) That is on a site for which a site approval has been given under **Part 1A**; and 10

“(iii) That conforms to all relevant minimum standards issued under **Part 1A** for the design, manufacture, and performance of gaming equipment.”

28. Minister may grant licences to conduct games of chance—(1) Section 8 (1) of the principal Act is amended by inserting, after the words “any game or games of chance” where they first appear, the words “(other than games of chance played by way of a gaming machine)”. 15

(2) Section 8 of the principal Act is amended by adding the following subsection: 20

“(7) Despite subsection (6), regulations relating to games of chance played by way of gaming machines may not be made under subsection (5), but must be made under **section 11zc**.”

29. Existing licences in relation to gaming machines— 25
Section 8A of the principal Act is repealed.

30. Regulations—Section 8B of the principal Act is amended by repealing subsections (3) to (7), and substituting the following subsection:

“(3) Despite subsection (2), regulations relating to games of chance played by way of gaming machines may not be made under subsection (1), but must be made under **section 11zc**.” 30

31. Advertising games of chance prohibited—
(1) Section 11 (2) of the principal Act is amended by omitting the words “section 8 or section 9 of this Act”, and substituting the words “section 8, section 9, or **Part 1A**”. 35

(2) Section 11 (3) of the principal Act is amended by repealing the words “section 8 or section 9 or section 10 of this Act”, and substituting the words “section 8, section 9, section 10, or **Part 1A**”. 40

32. New Part 1A inserted—The principal Act is amended by inserting, after Part I, the following Part:

“PART 1A

“GAMING MACHINES

“*Purpose*

5

“11A. **Purpose**—The purpose of this Part is to—

“(a) Authorise the licensing and operation of gaming machines for the purpose of raising funds for authorised purposes:

10

“(b) Ensure that the proceeds of gaming machines are used for authorised purposes, while recognising that those who operate gaming machines are entitled to be reimbursed for the actual and reasonable costs associated with operating them:

15

“(c) Ensure that gaming machines are operated honestly:

“(d) Minimise the opportunities for fraud and misappropriation associated with the operation of gaming machines:

20

“(e) Make provision for minimising the negative social effects (including problem gambling) associated with gaming machine use.

“*Interpretation*

“11B. **Interpretation**—In this Part, unless the context otherwise requires,—

25

“‘Approved site’ means a site in respect of which a site approval has been granted:

“‘Associated person’ means, in relation to a gaming machine society or an applicant for a fundraiser licence, a person who—

30

“(a) Is an office holder in the gaming machine society or applicant; or

“(b) Is, or performs the functions of, the chief executive of the society or applicant, however that position is designated; or

35

“(c) Exercises a significant influence in the management of the society or applicant:

“‘Authorised purpose’ has the meaning given to it in section 2 (2):

40

“‘Fundraiser licence’ means a licence granted under **section 11F** that authorises a gaming machine society to raise money for authorised purposes by operating a specified number and type of gaming machines at

approved sites, and includes the conditions of the licence:

- “ ‘Gaming equipment’ means a gaming machine and any associated machine or device used remotely or directly in connection with the operation or monitoring of a gaming machine: 5
- “ ‘Gaming machine society’ means a body corporate that is established and conducted entirely for any purpose other than a commercial one, and that holds a fundraiser licence: 10
- “ ‘Minimum standard’ means a minimum standard prescribed by the Secretary under **section 11ZA** for the design, manufacture, and performance of gaming equipment:
- “ ‘Net proceeds’ means the gross proceeds of a gaming machine society’s gaming machines, plus any interest received as a result of the investment of those proceeds, less— 15
- “(a) The actual and reasonable expenses incurred by the society in operating the machines; and 20
- “(b) The actual and reasonable expenses incurred by the society in complying with this Act, any regulations made under this Act, and the fundraiser licence and any site approval:
- “ ‘Operate’, in relation to gaming machines, means to conduct a game of chance or instant game by way of a gaming machine: 25
- “ ‘Prescribed fee’ means a fee prescribed by regulations made under **section 11ZC**:
- “ ‘Relevant offence’ means— 30
- “(a) A crime involving dishonesty, as defined in section 2 (1) of the Crimes Act 1961; or
- “(b) An offence against this Act, the Racing Act 1971, or the Casino Control Act 1990; or
- “(c) An offence against any regulation made under this Act: 35
- “ ‘Site agreement’ means an agreement between a gaming machine society and the owner or occupier of an approved site (or a site for which approval is sought) that relates to the operation of the society’s gaming machines on the site: 40
- “ ‘Site approval’ means an approval granted under **section 11H** to a gaming machine society, under which a particular site may be used as a place to operate

gaming machines, and includes the conditions of the approval:

- 5 “ ‘Site manager’ means the person responsible for the supervision of the gaming machines and site personnel on an approved site:
- “ ‘Site personnel’ means persons who work at an approved site and whose work involves dealing with gaming equipment, the players of gaming machines, or the proceeds of gaming machines:
- 10 “ ‘Standard form’ means a form prescribed by the Secretary under **section 11zB**.

“Fundraiser Licences and Site Approvals

15 “**11c. Gaming machines may be operated only under licence**—(1) Gaming machines may be operated only in accordance with—

- “(a) A fundraiser licence; and
- “(b) A site approval.

20 “(2) A gaming machine society may hold only one fundraiser licence, but may apply for and hold more than one site approval.

“**11D. Application for fundraiser licence and site approval**—(1) A body corporate that is established and conducted entirely for any purpose other than a commercial one may apply to the Secretary for—

- 25 “(a) A fundraiser licence;
- “(b) A site approval.

“(2) Every application under this section must be on the relevant standard form and be accompanied by the prescribed application fee.

30 “(3) An application for a fundraiser licence must also be accompanied by any fee payable in respect of each gaming machine that the applicant is seeking authorisation to operate under the licence.

35 “(4) An application for a site approval must be accompanied by a copy of the site agreement between the applicant and the owner or occupier of the site. No site agreement is necessary if the applicant is the owner or occupier of the site.

40 “**11E. Secretary may carry out investigations**—(1) On receipt of an application for a fundraiser licence or a site approval, the Secretary may undertake any investigations he or she considers necessary to determine whether the applicant should be granted the licence or approval.

“(2) The Secretary may require the applicant to provide further information in support of the application.

“(3) If the Secretary asks the Police, under this section, for information about any person, the Police must supply to the Secretary any information they hold relating to the person’s convictions. 5

“11F. **Grounds on which Secretary may grant fundraiser licence**—(1) The Secretary may grant an applicant a fundraiser licence if the Secretary is satisfied that—

“(a) The applicant’s purpose in operating gaming machines is to raise money for authorised purposes; and 10

“(b) The applicant will do all it can, without departing from the purpose of this Part, to maximise the net proceeds from the gaming machines; and

“(c) The net proceeds from the gaming machines will be distributed for authorised purposes; and 15

“(d) The applicant has provided all information that the Secretary has asked for; and

“(e) The applicant is suitable to hold a licence, in terms of subsection (2). 20

“(2) In determining whether an applicant is suitable to hold a fundraiser licence, the Secretary must take into account—

“(a) The honesty of the applicant and any associated person, including whether the applicant or any associated person— 25

“(i) Has been convicted of any relevant offence in the past 10 years:

“(ii) Has ever held, or been an associated person of the holder of, any licence under this Act that has been cancelled, or suspended, or for which an application for renewal has been declined: 30

“(iii) Has ever been placed in receivership, gone into liquidation, or been declared bankrupt; and

“(b) The financial position of the applicant, including the size and nature of any debts owed by the applicant, and the credit history of the applicant; and 35

“(c) The extent to which the applicant or any associated person has previously complied with this Act, any regulations made under this Act, and any site approval or licence under this Act; and 40

“(d) The amount of net proceeds that the applicant has at any time distributed for authorised purposes under a licence under this Act.

“(3) The Secretary may take into account matters of a similar nature to those listed in **subsection (2)** that occurred outside New Zealand.

“**11G. Content and conditions of fundraiser licence—**

5 (1) A fundraiser licence must include—

“(a) The name of the gaming machine society that holds the licence; and

“(b) The commencement date and expiry date of the licence; and

10 “(c) The number and type of machines authorised to be operated under the licence; and

“(d) A description of the authorised purpose or purposes for which money is intended to be distributed; and

“(e) Any other conditions of the licence.

15 “(2) The conditions that the Secretary may add to a fundraiser licence include conditions relating to—

“(a) The distribution of net proceeds:

“(b) The records to be maintained by the gaming machine society:

20 “(c) The specification or determination of what the gaming machine society may retain as reimbursement for the actual and reasonable expenses involved in operating the gaming machines and complying with this Act, any regulations made under this Act, the fundraiser licence, and any site approval:

25 “(d) The purchase and disposal of gaming equipment:

“(e) Minimising the possibility of people developing problems with gambling as a result of playing gaming machines operated by the society:

30 “(f) Any other matter that the Secretary considers will help ensure that the provisions of this Act and any regulations made under this Act are complied with.

“(3) The Secretary may at any time vary or revoke any condition of a fundraiser licence, or attach new conditions to it.

35 “**11H. Grounds on which Secretary may grant site approval—**(1) The Secretary may grant a site approval for a site to be used as a place to operate gaming machines if he or she is satisfied that the site is suitable for the operation of gaming machines.

40 “(2) When assessing the suitability of a site, the Secretary may take into account whatever matters he or she considers appropriate, but must in all cases consider—

- “(a) Whether the site is such that the possibility of people under 18 years having access to the gaming machines can be kept to a minimum; and
- “(b) Whether the site manager is a suitable person, in terms of **subsection (3)**, to be responsible for the supervision of the gaming machines and site personnel on the site; and 5
- “(c) Whether the site agreement (if any) will enable the gaming machines on the site to be operated in accordance with this Act, any regulations made under this Act, the fundraiser licence, and the site approval. 10
- “(3) In determining whether a site manager is a suitable person, the Secretary must take into account the following matters: 15
- “(a) The honesty of the site manager, including whether he or she has been convicted of any relevant offence in the past 10 years; and
- “(b) Whether the site manager has ever been an associated person of the holder of any licence under this Act that has been cancelled or suspended, or for which an application for renewal has been declined; and 20
- “(c) The extent to which the site manager, whether as site manager or as an associated person of a gaming machine society, has previously complied with this Act, any regulations made under this Act, and any site approval or licence under this Act. 25
- “11i. **Content and conditions of site approval**—(1) A site approval must include—
- “(a) The name of the gaming machine society that holds the approval; and 30
- “(b) The name of the owner or occupier of the site; and
- “(c) The name of the site manager of the site; and
- “(d) A description of the site and its location; and
- “(e) The number of gaming machines that may be operated on the site; and 35
- “(f) The commencement date and expiry date of the approval; and
- “(g) Any other conditions of the approval.
- “(2) The conditions that the Secretary may add to a site approval include conditions relating to— 40
- “(a) Procedures to ensure that the site manager can maintain effective supervision of the gaming machines and site personnel on the site; and

“(b) Procedures to minimise the possibility that people under 18 years have access to the gaming machines; and

“(c) The display of the site approval at the site; and

5 “(d) Any other matter that the Secretary considers will help ensure compliance with this Act, any regulations made under this Act, the fundraiser licence, and the site approval.

“(3) The Secretary may at any time vary or revoke any condition of a site approval, or attach new conditions to it.

10 “11j. **Application for renewal of fundraiser licence or site approval**—(1) A gaming machine society that wishes to renew its fundraiser licence or any of its site approvals must apply to the Secretary for renewal before the expiry date of the licence or approval.

15 “(2) An application for renewal must be on the relevant standard form and be accompanied by the prescribed renewal fee.

20 “(3) An application for renewal of a fundraiser licence must also be accompanied by any fee payable in respect of the number of gaming machines that the applicant is seeking to be authorised to operate under the renewed licence.

25 “(4) The provisions of **sections 11d to 11i** (relating to applications for, and grant of, fundraiser licences and site approvals) apply to an application for renewal as if the application were an application for a fundraiser licence or a site approval, as the case may be.

30 “(5) If the Secretary proposes to decline an application for renewal, the provisions of **sections 11i to 11o** (relating to suspension and cancellation of fundraiser licences and site approvals) apply as if the proposal to decline a renewal were a proposal to cancel the licence or site approval.

35 “11k. **Consequences of renewal and application for renewal**—(1) A renewed fundraiser licence is to be treated as if it were a licence granted under **section 11f**, and a renewed site approval is to be treated as if it were an approval granted under **section 11h**.

40 “(2) A licence or site approval continues in force after its expiry date if the gaming machine society has applied for renewal before the relevant expiry date and the application has not been declined.

“Suspension and Cancellation of Fundraiser Licence or Site Approval

- “11L. Grounds for suspending or cancelling fundraiser licence—**(1) The Secretary may suspend or cancel a fundraiser licence if he or she is satisfied that— 5
- “(a) The gaming machine society is no longer suitable to hold the licence, in terms of **section 11F (2)**; or
 - “(b) The gaming machine society has failed to provide relevant information to the Secretary when asked or required to do so; or 10
 - “(c) The site agreement is no longer consistent with ensuring compliance with this Act, any regulations made under this Act, the fundraiser licence, or the site approval; or
 - “(d) The gaming machine society has changed its governing instrument without obtaining the approval required by **section 11u**; or 15
 - “(e) The gaming machine society is failing, or has failed, to comply with this Act, any regulations made under this Act, or the fundraiser licence. 20
- “(2) In deciding whether to suspend or cancel a fundraiser licence, the Secretary must take into account the matters in **section 11f**.
- “11M. Grounds for suspending or cancelling site approval—**(1) The Secretary may suspend or cancel a site approval if he or she is satisfied that— 25
- “(a) The site manager is no longer a suitable person, in terms of **section 11H (3)**; or
 - “(b) A new site manager has been appointed and he or she has not been assessed as being a suitable person in terms of **section 11H (3)**; or 30
 - “(c) The site agreement is no longer consistent with ensuring compliance with this Act, any regulations made under this Act, the fundraiser licence, or the site approval; or 35
 - “(d) The site is not being, or has not been, managed in a way that complies with this Act, any regulations made under this Act, or the site approval.
- “(2) In deciding whether to suspend or cancel a site approval, the Secretary must take into account the matters in **section 11H**. 40
- “11N. Procedure for suspending or cancelling fundraiser licence or site approval—**(1) If the Secretary proposes to suspend or cancel a fundraiser licence or site

approval, he or she must notify the gaming machine society in writing of—

- “(a) The proposal to suspend or cancel the licence or site approval; and
- 5 “(b) The reason for the proposed suspension or cancellation; and
- “(c) The gaming machine society’s rights, and the procedure to be followed, before the suspension or cancellation can take effect.

10 “(2) The gaming machine society may make written submissions to the Secretary concerning the proposed suspension or cancellation within 20 working days of the date on the notice referred to in **subsection (1)**.

15 “(3) If the Secretary decides to suspend a fundraiser licence or site approval, he or she must notify the gaming machine society of—

- “(a) The duration of the suspension, which may be for up to 6 months; and
- “(b) The reason for the suspension; and
- 20 “(c) The matters to be dealt with in order for the suspension to be lifted; and
- “(d) The consequences of not dealing with the matters identified; and
- “(e) The society’s right to seek a review of the decision under **section 11p**.

25 “(4) If the Secretary decides to cancel a fundraiser licence or a site approval, he or she must notify the gaming machine society of the date from which the cancellation takes effect and the reason for the cancellation.

30 “**110. Consequences of suspension or cancellation of fundraiser licence or site approval**—(1) The suspension or cancellation of a fundraiser licence does not affect the obligations of the gaming machine society under that licence to report on and distribute the net proceeds in accordance with this Act, any regulations made under this Act, and the licence.

35 “(2) A fundraiser licence or site approval that is suspended or cancelled continues in force until the expiry of the period within which the gaming machine society may apply for a review under **section 11p**.

40 “(3) If a fundraiser licence is suspended or cancelled, every site approval held by the gaming machine society is also cancelled or suspended (as the case may be) on the date the suspension or cancellation of the fundraiser licence takes effect.

“(4) A suspension may be withdrawn before the end of the suspension period if the Secretary is satisfied that every matter for which the licence was suspended is resolved.

“(5) A suspended licence must be cancelled if, at the end of the suspension period, every matter for which the licence was suspended is not resolved to the satisfaction of the Secretary. 5

“11P. **Review of suspension or cancellation of fundraiser licence or site approval**—(1) A gaming machine society may apply to the Minister to review a decision to suspend or cancel its fundraiser licence or any of its site approvals. 10

“(2) An application for review must be in writing and be lodged with the Minister within 15 working days of the date of the decision to be reviewed.

“(3) The Minister must, as soon as practicable, determine whether to confirm, vary, or reverse the decision under review. 15

“(4) When reviewing a decision under this section, the Minister—

“(a) May request any information from the gaming machine society or the Secretary; and 20

“(b) Is not bound to follow any formal procedure; and

“(c) Does not need to hold a hearing; but

“(d) Must follow the rules of natural justice; and

“(e) Must consider any information provided to him or her by the gaming machine society or the Secretary. 25

“(5) The Minister must give written notice of his or her decision, with reasons, to both the gaming machine society and the Secretary.

“(6) The Minister may delegate his or her powers under this section to any person. 30

“11Q. **Consequence of application for review**—If a gaming machine society applies for a review under **section 11P**, the fundraiser licence or site approval continues in force pending the outcome of the review.

“11R. **Surrender of fundraiser licence or site approval**—(1) A gaming machine society may at any time surrender to the Secretary its fundraiser licence or any of its site approvals. 35

“(2) The surrender by a gaming machine society of its fundraiser licence does not affect the obligations of the society under that licence to report on and distribute the net proceeds in accordance with this Act, any regulations made under this Act, and the licence. 40

“(3) If a society surrenders its fundraiser licence, every site approval that the society holds is cancelled on the date the surrender takes effect.

“Amending Fundraiser Licence or Site Approval

5 “11S. **Amendment of fundraiser licence and site approval on application by society**—(1) A gaming machine society may apply to the Secretary for an amendment to its fundraiser licence or any of its site approvals.

10 “(2) An application under this section must be on the relevant standard form and be accompanied by the prescribed fee.

15 “(3) If the application is for an increase to the number of gaming machines authorised under the fundraiser licence, the application must also be accompanied by any fee payable in respect of each additional gaming machine for which authorisation is sought.

“ (4) The Secretary may amend the licence or any site approvals as he or she thinks fit, having regard to the matters in **section 11F or section 11H**, as the case requires.

20 “11T. **Gaming machine society to notify Secretary of changes**—(1) A gaming machine society must, as soon as practicable, notify the Secretary if—

“ (a) A new person becomes an associated person; or

“ (b) A new site manager is appointed; or

25 “ (c) A change is made to the site agreement or to the parties to the site agreement.

30 “(2) If a gaming machine society fails to comply with **subsection (1)**, that fact may be taken into account by the Secretary, and may count against the society, in any future decisions relating to licences or site approvals under this Act.

35 “11U. **Change of purpose and winding-up provisions ineffective without approval**—(1) A gaming machine society that wishes to change its governing instrument (for example, its constitution) must seek the approval of the Secretary before it changes any provision that has the effect of—

“ (a) Enabling the society to be conducted for a purpose other than an entirely non-commercial one; or

“ (b) Altering the distribution of its assets on winding up.

40 “(2) If a governing instrument is changed in the way described in **subsection (1)** without the approval of the Secretary, then the change is of no effect for any purpose associated with this Part.

“Distribution of Funds

“11v. **Distribution of funds**—(1) A gaming machine society must distribute the net proceeds of each gaming machine for an authorised purpose in accordance with this Act, any regulations made under this Act, and its fundraising licence. 5

“(2) A gaming machine society commits an offence if it—

“(a) Fails to distribute the net proceeds for an authorised purpose; or

“(b) Distributes the net proceeds otherwise than in accordance with this Act, any regulations made under this Act, and its fundraiser licence. 10

“(3) On conviction for an offence under **subsection (2)**, the Court must order the cancellation of the society’s fundraiser licence, and may make whatever orders are necessary to ensure the recovery of any money wrongly distributed, or the safeguarding of any money not yet distributed, and may order its distribution for authorised purposes. 15

“11w. **Distribution of funds when society ceases to operate gaming machines**—(1) If a gaming machine society ceases to operate gaming machines, it must— 20

“(a) Distribute the net proceeds from all its gaming machines, in accordance with **section 11v**, within 20 working days of ceasing to operate the machines; and 25

“(b) Report to the Secretary, on the relevant standard form, on the final distribution of net proceeds under this section.

“(2) If the Secretary is satisfied that the net proceeds have not been distributed as required by **subsection (1)**, or that the required report has not been made, he or she may apply for orders to be made under **subsection (4)**. 30

“(3) An application for orders must be made to—

“(a) The High Court, if the net proceeds are, or are estimated to be, more than \$200,000: 35

“(b) A District Court, if the net proceeds are, or are estimated to be, \$200,000 or less.

“(4) On application by the Secretary under this section, the High Court or a District Court (as the case may be) may make whatever orders are necessary to ensure the recovery of any money wrongly distributed, or the safeguarding of any money not yet distributed, and may order its distribution for authorised purposes. 40

“People Under 18 Not to Play Gaming Machines

“11x. People under 18 not to play gaming machines—

5 (1) Every person under 18 years who plays a gaming machine commits an offence and is liable on summary conviction to a fine not exceeding \$500.

10 “(2) A gaming machine society that allows a person under 18 years to play a gaming machine on any site for which it holds the site approval commits an offence and is liable on summary conviction to the cancellation of the site approval for the site on which the offence occurred.

“(3) A site manager who allows a person under 18 years to play a gaming machine on any site for which he or she is responsible commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

15 “(4) It is a defence to a charge under **subsection (2) or subsection (3)** if the defendant proves that—

“(a) The defendant believed on reasonable grounds that the person to whom the charge relates was 18 years or over; or

20 “(b) The defendant took reasonable steps to remove the under-age player on becoming aware of the situation; or

25 “(c) The defendant believed on reasonable grounds that there were effective procedures in place to minimise the possibility of people under 18 years playing gaming machines.

“11y. Power to require particulars—(1) Any member of the Police who has reasonable grounds to suspect that a person under 18 years is playing, or has been playing, a gaming machine may require the person to give his or her name, address, and age.

35 “(2) If the member of the Police has reasonable grounds to suspect that the particulars given are false, he or she may require the person to supply satisfactory evidence of those particulars.

40 “(3) If a person fails to give his or her particulars, or to provide satisfactory evidence of them, then the member of the Police must warn the person; and if the person persists in failing to give particulars or provide evidence as required the member of the Police may arrest the person without warrant.

“(4) A person commits an offence and is liable on summary conviction to a fine not exceeding \$500 if he or she—

- “(a) Fails, without reasonable excuse, to give particulars or evidence of those particulars when required to do so under this section; or
- “(b) Provides false particulars or evidence, knowing the particulars or evidence to be false. 5

“Minimum Standards for Gaming Equipment

“11Z. **Gaming equipment to conform to minimum standards**—All gaming equipment operated by a gaming machine society must conform to all relevant minimum standards for the design, manufacture, and performance of gaming equipment. 10

“11ZA. **Secretary may prescribe minimum standards for gaming equipment**—(1) The Secretary may prescribe minimum standards for the design, manufacture, and performance of gaming equipment, and may at any time amend or revoke any minimum standard. 15

“(2) Minimum standards may include features designed to reduce the likelihood of problem gambling arising from the use of gaming machines.

“(3) The Secretary must publish a notice in the *Gazette*— 20

“(a) Stating that a minimum standard has been prescribed, amended, or revoked; and

“(b) Giving the date on which the standard, amendment, or revocation takes effect, which must be a date after the date on which the notice is published in the *Gazette*; and 25

“(c) Indicating where and how a copy of the standard, amendment, or revocation may be obtained.

“Standard Forms and Regulations

“11ZB. **Secretary may issue standard forms**—The Secretary may from time to time issue standard forms for any purpose specified in this Part, and must make copies of those forms available free of charge upon request. 30

“11ZC. **Regulations relating to gaming machines**—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 35

“(a) Prescribing the maximum number of gaming machines that may be operated on any site:

“(b) Prescribing the maximum stake that may be wagered on a single play of a gaming machine: 40

- “(c) Prescribing the maximum prize that may be won from a single play of a gaming machine:
- “(d) Prescribing a minimum amount from each gaming machine that must be distributed for authorised purposes:
- 5 “(e) Prescribing the auditing, reporting, and monitoring requirements for gaming machine societies:
- “(f) Prescribing, or prescribing the method or methods for calculating, the fees payable on application for—
- 10 “(i) A fundraiser licence:
 “(ii) A site approval:
 “(iii) Renewal of a fundraiser licence:
 “(iv) Renewal of a site approval:
 “(v) Amendment of a fundraiser licence:
 15 “(vi) Amendment of a site approval:
- “(g) Prescribing, or prescribing the method or methods for calculating, the fees payable in respect of each machine authorised under a fundraiser licence to be operated by a gaming machine society:
- 20 “(h) Requiring or authorising the Secretary to refund fees, and prescribing the method or basis for calculating the amount of any refund, when—
- “ (i) The number of machines authorised under a fundraiser licence is reduced:
- 25 “(ii) A fundraiser licence or site approval is surrendered:
 “(iii) An application for renewal of a fundraiser licence or site approval is declined:
- 30 “(i) Requiring that a society pay fees in respect of any period for which the society has been operating gaming machines under the authority of a licence that has remained in force by virtue of **section 110 (2)** or **section 110**:
- 35 “(j) Providing for such other matters as are contemplated by or necessary for giving full effect to this Part and for its due administration.
- “(2) Any regulations made, and any fees prescribed, under this section may apply—
- 40 “(a) To specified gaming machine societies or classes of gaming machine society; or
 “(b) In respect of specified gaming machines or classes of gaming machine; or
 “(c) In respect of specified sites or classes of site.”

33. Estimates of income and expenditure—Section 108 (1) of the principal Act is amended by omitting the expression “the 1st day of March”, and substituting the expression “1 June”.

34. Interpretation—The principal Act is amended by inserting in Part VIIA, immediately before section 116ZF, the following section: 5

“116ZFA. In this Part,—

“ ‘Licence’ means a fundraiser licence granted under 10

Part 1A:

“ ‘Society’ means a gaming machine society, as defined in section 11B.”

35. Process for determining levy—Section 116ZP (2) (c) of the principal Act is amended by omitting the words “issued or renewed under section 8 of this Act”. 15

36. Additional levies—Section 116ZR (1) (a) of the principal Act is amended by omitting the words “for the conduct of games of chance involving the use of one or more gaming machines”.

37. Refunds of levies—Section 116ZS of the principal Act is amended by omitting from subsections (4) (a) and (6) (a) the words “for the conduct of games of chance involving the use of one or more gaming machines”, wherever they occur. 20

38. Payment of levy requirement of licence—(1) Section 116ZT (1) of the principal Act is amended by omitting the words “under section 8 of this Act”. 25

(2) Section 116ZT (2) of the principal Act is amended by omitting the words “issued or renewed under section 8 of this Act”.

39. Transitional provisions for 1996/97 financial year—Section 116ZW of the principal Act is repealed. 30

40. Powers of inspectors—(1) Section 135 (1) (a) of the principal Act is amended by omitting the words “of this Act”, and substituting the expression “or **Part 1A**”.

(2) Section 135 (1) (b) of the principal Act is amended by omitting the words “of this Act”, and substituting the expression “or **Part 1A**”. 35

(3) Section 135 (1) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:

5 “(ba) On which the holder or former holder of a fundraiser licence issued under **Part 1A** has its registered office, or on which the holder or former holder of the licence keeps any of its records relating to the operation of gaming machines; or”.

41. Consequential amendment to Racing Act 1971—
Section 99s (1)(a) of the Racing Act 1971 is amended by inserting, after the expression “section 8”, the expression “or **Part 1A**”.

10 **42. Transitional arrangements relating to licences**—
(1) Every licence that is issued under section 8 of the principal Act for the conduct of games of chance or instant games by way of gaming machines and that is in force on the date of the commencement of this section is, until the date of its expiry,
15 deemed to be—

- (a) A fundraiser licence; and
- (b) A site approval for each site on which gaming machines are operated under the licence.

20 (2) Every licence to which **subsection (1)** applies expires on the date on which it is expressed to expire, unless the holder has applied for a fundraiser licence before the expiry date and the application has not been declined, in which case the licence continues in force until the application has been determined.

25 (3) The Secretary may grant a fundraiser licence, along with one or more site approvals, for up to 6 months to an applicant that is not a body corporate if the Secretary is satisfied that the applicant—

- (a) Has previously held a licence under section 8 of the principal Act; and
- 30 (b) Has taken steps to become a body corporate; and
- (c) Would, but for the absence of corporate identity, satisfy the requirements for being granted a fundraiser licence or a site approval, as the case may be.

35 **43. Transitional arrangements relating to gaming equipment**—Gaming equipment that was authorised for use and operating immediately before the commencement of this section is deemed to comply with all relevant minimum standards prescribed under **section 11ZA** of the principal Act until the close of **30 June 2002**.