

First print



New South Wales

Unlawful Gambling Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The following Bills are cognate with this Bill:

Racing Administration Bill 1998

Gambling (Two-up) Bill 1998

Overview of Bill

The objects of this Bill are as follows:

- (a) to prohibit, in the public interest, certain forms of gambling,
- (b) to prevent the loss of public revenue that is derived from lawful forms of gambling,
- (c) to deter criminal influence and exploitation in connection with gambling activities.

This Bill is part of a legislative package which involves rewriting the *Gaming and Betting Act 1912* in a more modern form.

In updating the provisions of the *Gaming and Betting Act 1912*, this Bill:

- (a) removes a number of obsolete concepts and provisions (such as the offence relating to reputed cheats) while strengthening existing prohibitions that are still relevant in the public interest, and
- (b) rationalises and identifies more clearly the forms of gambling that are lawful and those that are unlawful, and
- (c) continues existing prohibitions such as carrying on unlicensed bookmaking activities, conducting or playing unlawful games (eg games of chance that are associated with casino gaming) and operating premises that are used for gambling.

This Bill also amends the *Crimes Act 1900* to create an indictable offence of conducting an unlawful gambling operation (ie an organised operation that involves certain elements such as running at least 2 premises used for gambling).

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 specifies the objects of the proposed Act as described in the above overview.

Clause 4 defines certain words and expressions used in the proposed Act. The term **gambling** is used in the proposed Act as a collective term that includes gaming, betting or wagering.

Clause 5 defines the term **unlawful game** in much the same way as it is presently defined under section 17 of the *Gaming and Betting Act 1912*. The term generally covers those types of games that are associated with casino gaming.

Clause 6 defines the term **prohibited gaming device**. The term generally covers devices that are designed or used for the purposes of gambling.

Clause 7 specifies the forms of gambling that are lawful under other Acts (and will therefore not be prohibited by the proposed Act). These lawful forms of gambling include totalizator betting conducted in accordance with the *Totalizator Act 1997*, gambling at the licensed casino and conducting or participating in authorised public lotteries.

Part 2 Unlawful gambling activities

Division 1 Unlawful betting and bookmaking

Clause 8 makes it unlawful to engage in certain betting activities, including betting with unlicensed bookmakers via the Internet or other on-line telecommunications system.

Clause 9 prohibits bookmaking by unlicensed bookmakers. A licensed bookmaker cannot carry on bookmaking unless the bookmaker is at a licensed racecourse, however this restriction does not apply in relation to approved call of the card betting or doubles betting.

Clause 10 prohibits persons betting with unlicensed bookmakers.

Clause 11 prohibits persons having a financial interest in an unlawful bookmaking business.

Division 2 Unlawful gaming

Clause 12 prohibits the organising or conducting of an unlawful game.

Clause 13 prohibits the selling of tickets (or any thing that provides an opportunity to participate) in an unlawful game.

Clause 14 prohibits persons from participating in an unlawful game.

Clause 15 prohibits the possession of prohibited gaming devices and permitting the use or operation of such devices.

Division 3 Miscellaneous gambling offences

Clause 16 prohibits gambling with persons who are under the age of 18. This offence includes inducing minors to gamble.

Clause 17 prohibits gambling by persons who are under the age of 18.

Clause 18 prohibits cheating by persons who are engaged in lawful forms of gambling.

Clause 19 prohibits the possession of an unlawful gambling aid (ie any article or money used for unlawful gambling) and any documents, records, devices or programs that are used in connection with unlawful gambling.

Part 3 Unlawful gambling premises

Division 1 Declared gambling premises

Clause 20 provides that a Local Court may make an interim declaration that premises are gambling premises (ie premises that are used for playing unlawful games or for unlawful bookmaking activities).

Clause 21 requires notice of an interim declaration to be provided to the owner or occupier of the premises.

Clause 22 provides that the owner or occupier of the premises that are the subject of an interim declaration may apply for the revocation of the declaration.

Clause 23 provides for the revocation of an interim declaration by the Local Court.

Clause 24 provides that the Local Court may make a final declaration that premises are gambling premises.

Clause 25 allows submissions to be made as to whether the use of any declared gambling premises for the purposes of any business activity should be prohibited by the Local Court.

Clause 26 prohibits the use of any declared gambling premises for the purposes of any business activity.

Clause 27 requires notice of a final declaration, or of the revocation of an interim declaration, to be provided to the owner or occupier of the premises concerned.

Clause 28 provides for the revocation of a final declaration by the Local Court.

Clause 29 requires the Registrar-General to be notified of the making or revocation of an interim or final declaration.

Division 2 Offences relating to gambling premises

Clause 30 provides for the application of offences under the proposed Division to declared gambling premises.

Clause 31 prohibits the owner or occupier of premises from allowing the premises to be used as gambling premises.

Clause 32 prohibits the occupier of premises from allowing the premises to be used as gambling premises.

Clause 33 prohibits the organising or conducting of gambling premises.

Clause 34 creates the offence of being found on gambling premises otherwise than for a lawful purpose.

Clause 35 provides that the owner of declared gambling premises commits an offence if the premises are used as gambling premises while the declaration is in force.

Clause 36 provides that the occupier of declared gambling premises commits an offence if the premises are used as gambling premises while the declaration is in force.

Clause 37 creates the offence of being found on declared gambling premises otherwise than for a lawful purpose.

Part 4 Enforcement

Clause 38 provides for the removal of persons from racecourses or other premises if they are carrying on unlawful betting activities.

Clause 39 prohibits the obstruction of police officers in connection with their authority to enter premises under the proposed Act.

Clause 40 provides for search warrants in relation to premises that are suspected of being gambling premises.

Clause 41 authorises police officers to enter declared gambling premises.

Clause 42 provides for the eviction of the occupier of gambling premises by the owner of the premises.

Clause 43 authorises police officers to search for unlawful gambling aids or any other material connected with unlawful gambling.

Clause 44 provides for certain money, equipment and other material to be forfeited to the Crown.

Clause 45 provides for the recovery of certain money that is used by persons under the age of 18 for the purposes of gambling.

Part 5 Evidence and procedure

Clause 46 relates to evidence of publication of notices under the proposed Act concerning the declaration of premises as gambling premises.

Clause 47 provides that a person may be found to be a participant in an unlawful game even though the person was not playing the game for any money.

Clause 48 specifies certain circumstances in which premises will be regarded as being gambling premises for the purposes of an offence under the proposed Act.

Clause 49 relates to evidence of certain matters concerning unlawful betting.

Clause 50 provides that witnesses may be exempted from liability for offences under the proposed Act in certain circumstances.

Clause 51 provides for offences under the proposed Act to be dealt with by Local Courts, although some offences which attract a high penalty (ie 500 penalty units) are to be prosecuted on indictment.

Clause 52 provides for certain offences under the proposed Act to be dealt with by way of penalty notices.

Clause 53 deals with offences under the proposed Act that are committed by corporations.

Clause 54 provides for the recovery of expenses incurred by the police in connection with offences involving prohibited gaming devices.

Clause 55 allows a person's interstate gambling conviction to be counted in determining whether the person has committed a second or subsequent offence under the proposed Act.

Part 6 Miscellaneous

Clause 56 provides that agreements relating to unlawful gambling are unenforceable, and legal action cannot be taken to recover any money or thing alleged to have been won from unlawful gambling.

Clause 57 is a general regulation-making power.

Clause 58 gives effect to the Schedule of savings and transitional provisions.

Clause 59 gives effect to the Schedule containing amendments to other Acts.

Clause 60 repeals the *Gaming and Betting Act 1912* and the regulations made under that Act.

Clause 61 provides for a review of the proposed Act after 5 years.

Schedule 1 contains savings and transitional provisions, including a power to make regulations of a savings and transitional nature consequent on the enactment of the proposed Act.

Schedule 2 contains consequential amendments to other Acts. The *Crimes Act 1900* is amended to create an offence of conducting an unlawful gambling operation (maximum penalty will be 1,000 penalty units or imprisonment for 7 years, or both). An unlawful gambling operation involves certain elements, such as the keeping of at least 2 premises for the purposes of unlawful gambling and substantial planning and organisation in matters connected with unlawful gambling.



New South Wales

Unlawful Gambling Bill 1998

Contents

	Page
Part 1 Preliminary	
1 Name of Act	2
2 Commencement	2
3 Objects of Act	2
4 Definitions	2
5 Definition of "unlawful game"	4
6 Definition of "prohibited gaming device"	5
7 Lawful forms of gambling	6

Part 2 Unlawful gambling activities	
Division 1 Unlawful betting and bookmaking	
8 Offences relating to unlawful betting	8
9 Offence of unlawful bookmaking	10
10 Betting with unlicensed bookmakers	11
11 Offence of having financial interest in unlawful bookmaking business	11

	Page
Division 2 Unlawful gaming	
12 Organising unlawful game	12
13 Selling ticket in unlawful game	12
14 Participating in unlawful game	12
15 Possession and use of prohibited gaming device	13
Division 3 Miscellaneous gambling offences	
16 Gambling with minors	13
17 Gambling by minors	14
18 Cheating	14
19 Possession of unlawful gambling aids and documents connected with unlawful gambling	15

Part 3 Unlawful gambling premises

Division 1 Declared gambling premises	
20 Interim declaration of premises as gambling premises	16
21 Notice of making of interim declaration	16
22 Application for revocation of interim declaration	17
23 Revocation of interim declaration	17
24 Final declaration of premises as gambling premises	18
25 Submissions as to use of declared gambling premises	18
26 Restriction on use of declared gambling premises	18
27 Notice of making of final declaration or revocation of interim declaration	19
28 Revocation of final declaration	19
29 Notice to Registrar-General concerning declared gambling premises	20
Division 2 Offences relating to gambling premises	
30 Application of Division	21
31 Using premises as gambling premises—offence by owner or occupier	21
32 Using premises as gambling premises—offence by operator	21
33 Offence of organising gambling premises	22
34 Offence of being on gambling premises	22

Unlawful Gambling Bill 1998

Contents

	Page
35 Declared gambling premises—offence by owner	23
36 Declared gambling premises—offence by occupier	23
37 Declared gambling premises—offence of being on premises without lawful excuse	23

Part 4 Enforcement

38 Removal of persons engaged in unlawful betting	25
39 Obstructing police officer	25
40 Search warrant—suspected gambling premises	26
41 Declared gambling premises—powers of entry	26
42 Eviction of occupier of gambling premises	27
43 Powers of search in relation to unlawful gambling aids and documents connected with unlawful gambling	28
44 Forfeiture to Crown	28
45 Recovery of certain money involving minors	29

Part 5 Evidence and procedure

46 Evidence of publication of notices	30
47 Participating in unlawful game	30
48 Evidence of premises used as gambling premises	30
49 Evidentiary provisions relating to betting	31
50 Certain witnesses exempt from liability	32
51 Proceedings for offences	32
52 Penalty notices for certain offences	33
53 Offences by corporations	34
54 Order for payment of certain expenses	35
55 Recognition of interstate gambling offences	35

Part 6 Miscellaneous

56 Agreements relating to unlawful gambling unenforceable	36
57 Regulations	36
58 Savings and transitional provisions	36
59 Amendment of Acts	36

Unlawful Gambling Bill 1998

Contents

	Page
60 Repeal of Gaming and Betting Act 1912 and regulations under that Act	36
61 Review of Act	36

Schedules

1 Savings and transitional provisions	38
2 Amendment of Acts	39



New South Wales

Unlawful Gambling Bill 1998

No. , 1998

A Bill for

An Act to impose prohibitions on certain gambling activities and in relation to premises used for gambling; to repeal the *Gaming and Betting Act 1912*; to amend the *Crimes Act 1900* to create an offence of conducting an unlawful gambling operation; to amend certain other Acts; and for related purposes.

See also *Racing Administration Bill 1998* and *Gambling (Two-up) Bill 1998*.

Clause 1 Unlawful Gambling Bill 1998

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Unlawful Gambling Act 1998*.

2 Commencement

5

(1) This Act commences on a day or days to be appointed by proclamation.

(2) In particular, different days may be appointed for the commencement of section 60 for the purpose of repealing different provisions of the *Gaming and Betting Act 1912*, or the regulations under that Act, on different days.

10

3 Objects of Act

The objects of this Act are as follows:

(a) to prohibit, in the public interest, certain forms of gambling,

15

(b) to prevent the loss of public revenue that is derived from lawful forms of gambling,

(c) to deter criminal influence and exploitation in connection with gambling activities.

4 Definitions

20

In this Act:

bookmaker includes any person:

(a) who carries on the business of, or who acts as, a bookmaker, bookmaker's clerk or turf commission agent, or

25

(b) who gains, or endeavours to gain, a livelihood wholly or partly by betting or making wagers.

declared gambling premises means any premises that are the subject of:

- (a) an interim declaration under section 20, or
- (b) a final declaration under section 24.

exercise a function includes perform a duty. 5

function includes a duty.

gambling includes gaming, betting or wagering.

gambling premises means any premises that are:

- (a) used for playing or taking part in an unlawful game, or
- (b) used as a common gaming house at common law, or 10
- (c) used for or in connection with bookmaking carried on by or on behalf of a person who is not a licensed bookmaker.

gaming equipment means any device or thing used, or capable of being used, for or in connection with the playing of an unlawful game. 15

licensed bookmaker means a person who is authorised by a controlling body (within the meaning of the *Racing Administration Act 1998*) to carry on bookmaking.

licensed racecourse means a racecourse licensed under the *Racing Administration Act 1998*. 20

money includes any valuable thing or any security for money.

occupier of premises includes the lessee or sublessee who is not the owner of the premises.

owner of premises includes any person who is:

- (a) entitled to freehold possession of the premises, or 25
- (b) in actual receipt of, or entitled to receive, or if the premises were let to a tenant, would be entitled to receive, the rents and profits of the premises.

premises includes:

- (a) a building or structure, or part of a building or structure 30
(such as a room), or
- (b) any land (whether or not built on), or
- (c) a vehicle or a vessel (whether or not used in navigation).

prohibited gaming device—see section 6.

senior police officer means a police officer of or above the rank of senior sergeant.

unlawful gambling aid means any money, or any article of a kind prescribed by the regulations for the purposes of this definition, that is used: 5

- (a) for or in connection with any form of gambling that is prohibited by or under this Act, or
- (b) for the purposes of a transaction that is dependent on any such form of gambling, 10

whether or not (in the case of an article) it is ordinarily used for some other purpose.

unlawful game—see section 5.

5 Definition of “unlawful game”

(1) For the purposes of this Act, the following games are *unlawful games*: 15

- (a) the games called respectively fan-tan, pak-a-pu, two-up, hazard, baccarat, faro or roulette, or any similar game of chance,
- (b) any game of chance that is played at a table or with gaming equipment, 20
- (c) any game involving the use or operation of a prohibited gaming device,
- (d) any game that involves the disposal of money by lottery or by chance, 25
- (e) any game in which the chances are not alike favourable to all the players, including among the players, the banker or other person (if any) by whom the game is managed or against whom the other players play or bet,
- (f) any game that involves playing or staking against a bank that does not pass from one participant in the game to another: 30
 - (i) by chance or by regular rotation among all the participants in the game, and
 - (ii) without any requirement to pay a charge or comply with any other condition, 35

-
- (g) any game with cards or other gaming equipment from which a person receives a percentage or share of the amount wagered,
- (h) any game of skill or chance, or of mixed skill and chance, in which any money is staked or risked by a person on an event or contingency specified by the person and in which: 5
- (i) there is a dealer, croupier or banker who is not a participant in the game while acting in such a capacity, or
- (ii) a person, other than a participant in the game, receives a payment or other benefit from the playing of the game, or 10
- (iii) a payment or other benefit is given or sought for the right to participate in the game or for the right to enter the land or premises on which the game is played. 15
- (2) In any proceedings in relation to a game alleged to be an unlawful game referred to in subsection (1) (h), it is to be presumed, unless the contrary is proved, that the game was an unlawful game if more than 8 persons (including participants in the game) were in the vicinity of the playing of the game. 20

6 Definition of "prohibited gaming device"

- (1) In this Act, *prohibited gaming device* means a device that:
- (a) is designed or adapted for the playing of a game for money or a prize (being a game that is a game of chance, or a game that is partly a game of chance and partly a game requiring skill), or 25
- (b) is designed or used for the purposes of gambling, or
- (c) is declared by the regulations to be a prohibited gaming device for the purposes of this Act, or 30
- (d) is of a class or description of devices declared by the regulations to be prohibited gaming devices for the purposes of this Act.

- (2) Without limiting subsection (1) (c) or (d), a device is a prohibited gaming device for the purposes of this Act if the device is kept, used or operated in such circumstances, or in such manner, as may be prescribed by the regulations.
- (3) A prohibited gaming device does not include a device that: 5
- (a) is designed and used solely for the purposes of amusement or entertainment, and
 - (b) is declared by the regulations not to be a prohibited gaming device.

7 Lawful forms of gambling 10

This Act does not prohibit any of the following:

- (a) conducting a totalizator, or conducting any betting activity, under the authority of a licence granted under the *Totalizator Act 1997*,
- (b) conducting or participating in a lottery activity or a game of chance (within the meaning of the *Lotteries and Art Unions Act 1901*) that is authorised under that Act, 15
- (c) conducting or participating in a public lottery (within the meaning of the *Public Lotteries Act 1996*) that is authorised under that Act, 20
- (d) conducting or participating in a game of two-up that is lawful under the *Gambling (Two-up) Act 1998*,
- (e) gambling carried on in a casino that is licensed under the *Casino Control Act 1992*,
- (f) keeping, using or operating an approved gaming device (within the meaning of the *Registered Clubs Act 1976*) on the premises of a registered club in accordance with that Act, 25
- (g) keeping, using or operating an approved gaming device (within the meaning of the *Liquor Act 1982*) in a hotel in accordance with that Act, 30

-
- (h) exhibiting any gaming device for promotional purposes if the device:
- (i) is exhibited by a licensed amusement device dealer or a licensed amusement device seller, and
 - (ii) is exhibited with the approval of the Liquor Administration Board and in compliance with any conditions to which the approval is subject, and 5
 - (iii) is designed to be used to play a game that could be lawfully played by means of an approved gaming device within the meaning of the *Liquor Act 1982*, and 10
 - (iv) is not used for the purposes of gambling.

Part 2 Unlawful gambling activities

Division 1 Unlawful betting and bookmaking

8 Offences relating to unlawful betting

- (1) For the purposes of this section, the following forms of betting are prohibited: 5
- (a) betting on any event or contingency if the person is not present at a licensed racecourse and the bet is made with a bookmaker,
 - (b) betting on any event or contingency (other than a horse race, harness race, greyhound race or sports betting event) when the person is present at a licensed racecourse, 10
 - (c) betting on any event or contingency when the person is present at a racecourse and a trial meeting (within the meaning of the *Racing Administration Act 1998*) is being held at that racecourse, 15
 - (d) betting on any event or contingency when the person is present at a racecourse and a race meeting is being held at that racecourse in contravention of the *Racing Administration Act 1998*.
- (2) A person who engages in betting that is prohibited by subsection (1) is guilty of an offence. 20
- Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).
- (3) A person must not make a bet on any horse race, harness race or greyhound race that is to be held anywhere in Australia if: 25
- (a) the bet is made electronically by means of the Internet, subscription pay TV or other on-line telecommunications system, and
 - (b) the bet is made with another person whom the person making the bet knows (or would be reasonably expected to know): 30
 - (i) is not a legal bookmaker, or

-
- (ii) is not a person who is authorised under the law of any other State or Territory to conduct totalizator betting.
- Maximum penalty: 50 penalty units or imprisonment for 12 months (or both). 5
- (4) For the purposes of subsection (3):
- legal bookmaker*** means:
- (a) a licensed bookmaker, or
- (b) a person who is authorised under the law of any other State or Territory to carry on bookmaking activities. 10
- (5) The following forms of betting are not prohibited by or under this section:
- (a) betting on a horse race, harness race or greyhound race if the betting takes place at a race meeting that is held at a licensed racecourse on any day approved by the controlling body responsible for the type of racing concerned, 15
- (b) betting on a horse race, harness race, greyhound race or sports betting event if the betting takes place in an authorised betting auditorium, 20
- (c) betting on a sports betting event if the betting is carried on by an authorised sports betting bookmaker at a licensed racecourse in accordance with a sports betting authority,
- (d) betting on any event or contingency if the betting is carried on by a licensed bookmaker in accordance with an authority under section 16 of the *Racing Administration Act 1998*, 25
- (e) betting on a horse race, harness race, greyhound race or sports betting event if the betting is made with a totalizator conducted by a licensee under the *Totalizator Act 1997* or is otherwise authorised under that Act, 30
- (f) betting on a horse race, harness race, greyhound race or sports betting event if the betting takes place at a licensed racecourse:

- (i) during so much of the day arranged for a race meeting at the racecourse as remains after the conclusion, postponement or abandonment of the race meeting, or
- (ii) at any time on a day arranged for a race meeting (after the time arranged for the start of the meeting) if the race meeting was cancelled or postponed the day before. 5
- (6) In subsection (5), *authorised betting auditorium*, *authorised sports betting bookmaker*, *controlling body*, *sports betting authority* and *sports betting event* have the same meanings as in the *Racing Administration Act 1998*. 10

9 Offence of unlawful bookmaking

- (1) A person must not carry on bookmaking unless the person is a licensed bookmaker. 15
- Maximum penalty:
- for a first offence—100 penalty units or imprisonment for 2 years (or both),
 - for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both). 20
- (2) A person who is a licensed bookmaker must not carry on bookmaking except:
- (a) at a licensed racecourse, and
- (b) when it is lawful for betting to take place at the racecourse.
- Maximum penalty: 25
- for a first offence—100 penalty units or imprisonment for 2 years (or both),
 - for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).
- (3) Subsection (2) does not apply in relation to any doubles betting, or call of the card betting, carried on by a licensed bookmaker in accordance with the approval of the Minister. 30

(4) The Minister's approval under subsection (3) is subject to such conditions as the Minister thinks fit to impose.

(5) For the purposes of this section:

call of the card betting means betting that is carried on in relation to a racing event on a day before the event takes place. 5

doubles betting means betting that is carried on in relation to 2 separate racing events and in respect of which a successful bet requires the selection of the winners of both events.

10 Betting with unlicensed bookmakers

A person must not make a bet with another person if the person knows, or would reasonably be expected to know, that the other person is carrying on bookmaking in contravention of this Act. 10

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

11 Offence of having financial interest in unlawful bookmaking business 15

(1) A person who has a financial interest in a bookmaking business, knowing that the business is being conducted in contravention of this Act, is guilty of an offence.

Maximum penalty: 20

- for a first offence—100 penalty units or imprisonment for 2 years (or both),
- for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).

(2) A person is not guilty of an offence under this section if the person proves that he or she: 25

(a) at the time of acquiring the financial interest in the bookmaking business, did not know, and had no reasonable cause to suspect, that the business was being or would be conducted in contravention of this Act, and 30

(b) as soon as practicable after becoming aware that the bookmaking business was being conducted in contravention of this Act, took all reasonable steps to divest himself or herself of the financial interest.

(3) In this section:

financial interest in a bookmaking business means an entitlement to receive any of the income from the business.

Division 2 Unlawful gaming

12 Organising unlawful game

5

(1) A person must not:

- (a) organise or conduct, or assist in organising or conducting, an unlawful game, or
- (b) receive a percentage or share from any amount wagered on an unlawful game.

10

Maximum penalty:

- for a first offence—50 penalty units or imprisonment for 12 months (or both),
- for a second or subsequent offence—100 penalty units or imprisonment for 2 years (or both).

15

(2) A person who acts as a look-out, door attendant or guard in respect of any premises at which an unlawful game is organised or conducted is taken to have assisted in organising or conducting the game unless the person proves that he or she did not know, or could not reasonably be expected to have known, that the unlawful game was being organised or conducted.

20

13 Selling ticket in unlawful game

(1) A person must not sell, or give away, a ticket or chance, or share in a ticket or chance, in an unlawful game.

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

25

(2) In this section:

chance means any thing that provides an opportunity to participate in an unlawful game.

14 Participating in unlawful game

30

A person must not participate in, or bet on, an unlawful game.

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

15 Possession and use of prohibited gaming device

- (1) A person must not:
- (a) possess a prohibited gaming device, or
 - (b) permit the use or operation of a prohibited gaming device.

Maximum penalty:

- in the case of a corporation—500 penalty units,
- in any other case—50 penalty units or imprisonment for 12 months (or both) for a first offence, and 500 penalty units or imprisonment for 2 years (or both) for a second or subsequent offence.

- (2) In determining the amount of any penalty for an offence under this section, the court is to take into account the number of prohibited gaming devices involved in the commission of the offence.

Division 3 Miscellaneous gambling offences**16 Gambling with minors**

- (1) A person who is of or above the age of 18 years must not:
- (a) engage in any form of gambling with a minor, or
 - (b) engage in any form of gambling with another person on behalf of a minor, or
 - (c) for fee or reward, send (or cause to be sent) to a minor any inducement to gamble.

Maximum penalty: 50 penalty units.

- (2) A person who engages in any form of gambling with a minor, or with another person on behalf of a minor, is taken to have known that the minor was under the age of 18 years unless the person proves that the person had reasonable grounds for believing the minor to be of or above the age of 18 years.
- (3) If an inducement to gamble refers to a person to whom any payment may be made, or from whom information may be obtained, in relation to any gambling activities, the person so referred to is taken to have sent the inducement (or caused it to be sent) unless the person proves that the person:
- (a) had not consented to being referred to, and

(b) was not in any way a party to, and was wholly ignorant of, the sending of the inducement.

(4) If an inducement to gamble is sent to a person at any school or other place of education, and that person (*the receiver*) is a minor: 5

(a) the person sending or causing the inducement to be sent (*the sender*) is taken to have known that the receiver is a minor, unless the sender proves that the sender had reasonable grounds for believing the receiver to be of or above the age of 18 years, and 10

(b) the sender is taken to have sent the inducement for fee or reward unless the contrary can be proved.

(5) In this section:

inducement to gamble means any advertisement, message or document that invites, or may reasonably be implied to invite, the person receiving it: 15

(a) to engage in any form of gambling, or

(b) to apply to any person, or at any place, with a view to obtaining information or advice for the purpose of any bet or for information as to any event or contingency on which betting is generally carried on. 20

send includes send by electronic means.

17 Gambling by minors

(1) A minor must not participate in any form of gambling.
Maximum penalty: 20 penalty units. 25

(2) A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty that is imposed in respect of an offence under this section.

18 Cheating

(1) A person who is engaged in any form of gambling (other than a form of gambling that is prohibited by or under this Act) must not: 30

(a) by a fraudulent trick, device, sleight of hand or representation, or

-
- (b) by a fraudulent scheme or practice, or
- (c) by the fraudulent use of gaming equipment or any other thing, or
- (d) by the fraudulent use of an instrument or article of a type normally used in connection with gambling (or appearing to be of a type normally used in connection with gambling), 5
- obtain, or attempt to obtain, any money or advantage for himself or herself or any other person.
- Maximum penalty: 100 penalty units or imprisonment for 2 years (or both). 10
- (2) This section does not limit the operation of any offence relating to cheating under any other Act.
- 19 Possession of unlawful gambling aids and documents connected with unlawful gambling** 15
- (1) A person who is in possession of an article or money that may reasonably be suspected of being an unlawful gambling aid is guilty of an offence.
- Maximum penalty:
- for a first offence—50 penalty units or imprisonment for 12 months (or both), 20
 - for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).
- (2) A person is not guilty of an offence under subsection (1) if the person proves that he or she did not know, or could not reasonably be expected to know, that the article or money concerned was an unlawful gambling aid. 25
- (3) A person who is in possession of any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any form of gambling prohibited by or under this Act is guilty of an offence. 30
- Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

Part 3 Unlawful gambling premises

Division 1 Declared gambling premises

20 Interim declaration of premises as gambling premises

- (1) A senior police officer may file with a Local Court an affidavit:
 - (a) stating that the officer believes that certain premises are gambling premises, and 5
 - (b) setting out the grounds for that belief.
- (2) Within 5 days after the affidavit is filed, the Local Court must:
 - (a) make an interim declaration that the premises are reasonably suspected of being gambling premises, or 10
 - (b) determine not to make such an interim declaration.
- (3) In determining whether or not to make an interim declaration, the Local Court may have regard to:
 - (a) any external or internal observations of the premises, and
 - (b) the external or internal construction of the premises, and 15
 - (c) the alleged reputation of persons observed entering, leaving or within the premises or in the near vicinity of the premises, and
 - (d) the existence of any of the matters referred to in section 48 (1), and 20
 - (e) any money observed or found on the premises, and
 - (f) any other matters the court considers relevant.
- (4) If the Local Court makes an interim declaration, it must fix a date (being at least one month after the date on which the interim declaration is made) for the hearing of any application for the revocation of the interim declaration. 25

21 Notice of making of interim declaration

- (1) A senior police officer must cause notice of the making of an interim declaration, and the date fixed for hearing any application for its revocation, to be served on the owner or occupier of the premises the subject of the interim declaration. 30

-
- (2) The notice must be served:
- (a) personally, or
 - (b) if personal service cannot be effected promptly, by causing a copy of the notice to be fixed to or near the entrance to the premises. 5
- (3) A person must not deface, destroy, cover or remove a copy of a notice fixed under this section.
- Maximum penalty: 20 penalty units or imprisonment for 6 months (or both).
- (4) A senior police officer must also cause notice of the making of an interim declaration, and the date fixed for the hearing of any application for its revocation, to be published: 10
- (a) on 2 different days in a newspaper circulating in the area of the premises the subject of the interim declaration, and
 - (b) in the Gazette. 15

22 Application for revocation of interim declaration

- (1) The owner or occupier of premises that are the subject of an interim declaration may, not less than 14 days before the date fixed under section 20 (4) in respect of the declaration, make an application for the revocation of the interim declaration. 20
- (2) The application is to be made to the Local Court that made the interim declaration.
- (3) The person making the application must give notice of the application to a senior police officer not less than 7 days before the date fixed under section 20 (4). 25

23 Revocation of interim declaration

- (1) A Local Court may revoke an interim declaration made by the court if:
- (a) an application for the revocation of the interim declaration is made to the court, and 30
 - (b) the applicant is able to satisfy the court that the premises the subject of the interim declaration were not gambling premises at the date of filing the affidavit that led to the making of the interim declaration.

- (2) The revocation of an interim declaration may be subject to such conditions as the Local Court thinks fit, including conditions relating to the giving of undertakings to ensure that the premises will not be used as gambling premises.
- (3) The revocation of an interim declaration has effect from the date of the court's decision to revoke the interim declaration, or such other date as the court may specify. 5

24 Final declaration of premises as gambling premises

- (1) A Local Court may make a final declaration that the premises the subject of an interim declaration are gambling premises if: 10
- (a) an application for the revocation of the interim declaration is not made, or
- (b) an application is made but the applicant is unable to satisfy the court that the interim declaration should be revoked.
- (2) A final declaration that premises are gambling premises remains in force until it is revoked under section 28 by the Local Court that made the final declaration. 15

25 Submissions as to use of declared gambling premises

- (1) Any person who, in the opinion of the Local Court concerned, has a sufficient interest in any declared gambling premises is entitled to make submissions to the court on the question of whether the use of the premises for the purposes of any business activity should be prohibited. 20
- (2) Those submissions may be made:
- (a) at the time the Local Court is considering whether to make a final declaration that the premises concerned are gambling premises, or 25
- (b) on application by the person after any such final declaration is made.

26 Restriction on use of declared gambling premises 30

- (1) The use of the premises that are the subject of a final declaration under section 24 for the purposes of any business activity is prohibited unless, or except to the extent that, the Local Court, when making the final declaration or on a subsequent application, orders that it would be unjust or unreasonable for the prohibition to apply. 35

-
- (2) A person who contravenes a prohibition under this section is guilty of an offence.
Maximum penalty: 20 penalty units for each day on which the offence is committed, or imprisonment for 12 months, or both.
- 27 Notice of making of final declaration or revocation of interim declaration** 5
- (1) If the owner or occupier of gambling premises the subject of a final declaration did not appear, or was not represented, before the Local Court on the making of the final declaration, a senior police officer must cause notice of the making of the declaration to be served on the owner or occupier: 10
- (a) personally, or
- (b) if personal service cannot be effected promptly, by causing a copy of the notice to be fixed to or near the entrance to the declared gambling premises. 15
- (2) A person must not deface, destroy, cover or remove a copy of a notice fixed under this section.
Maximum penalty: 20 penalty units or imprisonment for 6 months (or both).
- (3) A senior police officer must cause notice of the making of a final declaration, or the revocation of an interim declaration, to be published: 20
- (a) on 2 different days in a newspaper circulating in the area of the premises the subject of the declaration, and
- (b) in the Gazette. 25
- 28 Revocation of final declaration**
- (1) A senior police officer, or the owner or occupier of premises that are the subject of a final declaration, may apply for the revocation of the declaration.
- (2) The application is to be made to the Local Court that made the final declaration. 30
- (3) An owner or occupier who makes an application must give notice of the application to a senior police officer not less than 7 days before the application is heard.

- (4) The Local Court may revoke the final declaration if the court is satisfied:
- (a) that the premises are no longer gambling premises, and
 - (b) in the case of an application by the owner or occupier— that the premises are, or are intended to be, used for a lawful purpose. 5
- (5) The revocation of a final declaration may be subject to such conditions as the Local Court thinks fit, including the giving of undertakings to ensure that the premises will not again be used as gambling premises. 10
- (6) The revocation of a final declaration has effect from the date of the Local Court's decision or such other date as the Local Court may specify.
- (7) A senior police officer must cause notice of the revocation of a final declaration to be published: 15
- (a) on 2 different days in a newspaper circulating in the area of the premises the subject of the declaration, and
 - (b) in the Gazette.
- 29 Notice to Registrar-General concerning declared gambling premises 20**
- (1) The Registrar-General must be notified of:
- (a) the making of an interim declaration under section 20, and
 - (b) the making of a final declaration under section 24, and
 - (c) the revocation of an interim declaration or a final declaration. 25
- It is the responsibility of the Local Court that has made the declaration or revocation to ensure that the Registrar-General is so notified.
- (2) If the notice to the Registrar-General:
- (a) describes the land which is or was affected by the declaration concerned in a manner enabling the land to be identified, and 30
 - (b) in the case of land under the *Real Property Act 1900*— specifies the reference to the folio of the Register kept under that Act, or the registered dealing under that Act, that evidences the title to that land. 35

the Registrar-General is, on being notified:

- (c) in the case of land under the *Real Property Act 1900*—to make such recordings in the Register in respect of the making (or revocation) of the interim declaration or final declaration as the Registrar-General considers appropriate, or 5
- (d) in any other case—to cause the notice to be registered in the General Register of Deeds kept under Division 1 of Part 23 of the *Conveyancing Act 1919*.
- (3) For the purposes of Division 1 of Part 23 of the *Conveyancing Act 1919*, a notice registered under subsection (2) (d) is taken to be a registration copy of an instrument duly registered under that Division. 10

Division 2 Offences relating to gambling premises

30 Application of Division 15

An offence under this Division applies in relation to declared gambling premises only if the offence is expressed to apply in relation to such premises.

31 Using premises as gambling premises—offence by owner or occupier 20

A person who is the owner or occupier of any premises must not knowingly allow the premises to be used as gambling premises.

Maximum penalty:

- for a first offence—50 penalty units or imprisonment for 12 months (or both), 25
- for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).

32 Using premises as gambling premises—offence by operator

- (1) The operator of any premises must not knowingly allow the premises to be used as gambling premises. 30

Maximum penalty:

- for a first offence—50 penalty units or imprisonment for 12 months (or both),
- for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both). 35

- (2) For the purposes of this section, a person is the *operator* of premises if the person:
- (a) is employed by, or is acting for or on behalf of, the owner or occupier of the premises, or
 - (b) has the care or management of the premises, or 5
 - (c) is, in any manner, conducting a business on the premises.

33 Offence of organising gambling premises

- (1) A person must not organise or conduct, or assist in organising or conducting, any gambling premises.
- Maximum penalty: 10
- for a first offence—50 penalty units or imprisonment for 12 months (or both),
 - for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).
- (2) A person who acts as a look-out, door attendant or guard in respect of any premises that are organised or conducted as gambling premises is taken to have assisted in organising or conducting the gambling premises unless the person proves that he or she did not know, and could not reasonably be expected to have known, that the premises were being organised or conducted as gambling premises. 20

34 Offence of being on gambling premises

- (1) A person who is found on, or who is found entering or leaving, gambling premises is guilty of an offence.
- Maximum penalty: 25
- for a first offence—50 penalty units or imprisonment for 12 months (or both),
 - for a second or subsequent offence—100 penalty units or imprisonment for 2 years (or both).
- (2) A person is not guilty of an offence under this section if the person proves that he or she was on, or was entering, the gambling premises for a lawful purpose or excuse. 30

35 Declared gambling premises—offence by owner

- (1) The owner of declared gambling premises is guilty of an offence if the premises are used as gambling premises while the declaration is in force.

Maximum penalty:

- for a first offence—50 penalty units or imprisonment for 12 months (or both),
- for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).

- (2) A person is not guilty of an offence under this section if the person proves that:

- (a) he or she has taken all reasonable steps to prevent the premises from being used as gambling premises, or
- (b) the person did not know (or could not reasonably be expected to have known) that the premises were declared gambling premises.

36 Declared gambling premises—offence by occupier

- (1) The occupier of declared gambling premises is guilty of an offence if the premises are used as gambling premises while the declaration is in force.

Maximum penalty:

- for a first offence—50 penalty units or imprisonment for 12 months (or both),
- for a second or subsequent offence—500 penalty units or imprisonment for 2 years (or both).

- (2) A person is not guilty of an offence under this section if the person did not know (or could not reasonably be expected to have known) that the premises were declared gambling premises.

37 Declared gambling premises—offence of being on premises without lawful excuse

- (1) A person who is found on, or who is found entering or leaving, declared gambling premises:

- (a) after the publishing of a notice of the making of:
 - (i) an interim declaration in accordance with section 21 (4), or

Clause 37 Unlawful Gambling Bill 1998

Part 3 Unlawful gambling premises
Division 2

(ii) a final declaration in accordance with section 27 (3),
and

(b) while the declaration concerned is in force,

is guilty of an offence.

Maximum penalty:

5

- for a first offence—50 penalty units or imprisonment for 12 months (or both),
- for a second or subsequent offence—100 penalty units or imprisonment for 2 years (or both).

(2) A person is not guilty of an offence under this section if the person proves that he or she was on, or was entering, the declared gambling premises for a lawful purpose or excuse. 10

Part 4 Enforcement

38 Removal of persons engaged in unlawful betting

- (1) A person:
- (a) who engages in any betting that is prohibited by section 8, and 5
 - (b) who continues to carry on the activity after being warned to cease carrying on the activity by:
 - (i) a police officer, or
 - (ii) an officer or employee of the person or body having control of the racecourse or other premises concerned, 10
- may be immediately removed from the racecourse or other premises by the police officer or by any such officer or employee.
- (2) If a person is removed from a racecourse or other premises under subsection (1), the person must not re-enter or attempt to re-enter the racecourse or other premises on the same day the person is removed. 15
- Maximum penalty: 50 penalty units or imprisonment for 12 months (or both). 20

39 Obstructing police officer

If a police officer is authorised under this Act to enter any premises, a person must not:

- (a) wilfully prevent the officer from entering or re-entering those premises or any part of those premises, or 25
- (b) wilfully obstruct or delay the officer from entering or re-entering those premises or any part of those premises, or
- (c) give an alarm or cause an alarm to be given for the purpose of:
 - (i) notifying another person of the presence of the officer, or 30
 - (ii) obstructing or delaying the officer from entering or re-entering those premises or any part of those premises. 35

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both). 35

40 Search warrant—suspected gambling premises

- (1) A police officer may apply to an authorised justice for a search warrant if the officer has reasonable grounds for believing that any premises:
- (a) are being kept or used as gambling premises, or 5
 - (b) will, within 72 hours of making the application, be used as gambling premises.
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any police officer: 10
- (a) to enter and search the premises, and
 - (b) to search any person on the premises, and
 - (c) to arrest any person on the premises, and
 - (d) to seize:
 - (i) any gaming equipment and money found on the premises, and 15
 - (ii) any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any gambling activity prohibited by or under this Act, and 20
 - (e) to require any person on the premises to state his or her full name and address.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section. 25
- (4) In this section:
- authorised justice* has the same meaning as in the *Search Warrants Act 1985*.

41 Declared gambling premises—powers of entry

- (1) A police officer may at any time, and without any warrant: 30
- (a) enter any declared gambling premises, and
 - (b) pass through, from, over, or along any other land or building for the purpose of entering any declared gambling premises, and

-
- (c) for any of the purposes of this section, break open doors, windows or partitions and do such other acts as may be necessary, and
- (d) seize any gaming equipment and money found in any declared gambling premises, and 5
- (e) seize any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any gambling activity prohibited by or under this Act.
- (2) Any gaming equipment, money or other thing seized under this section is forfeited to the Crown. 10
- (3) The Commissioner of Police may direct that any gaming equipment or other thing (except money) seized under this section be destroyed.
- 42 Eviction of occupier of gambling premises 15**
- (1) If the owner of any premises has reasonable grounds to suspect that the premises are gambling premises, the owner may serve a notice to quit on the occupier.
- (2) A notice to quit is to be served:
- (a) on the occupier personally, or 20
- (b) if the occupier cannot be found, by posting a copy of the notice on some conspicuous part of the premises.
- (3) Once the notice to quit is served, the owner may take legal proceedings to evict the occupier and cancel the tenancy.
- (4) The occupier may apply to a Local Court to cancel the notice to quit. 25
- (5) The occupier must serve a copy of the application on the owner at least 2 days before the application is heard by the Local Court.
- (6) Service of the application on the owner operates to stay any proceedings commenced by the owner under subsection (3) until such time as the Local Court determines the application. 30
- (7) The Local Court may cancel the notice to quit if satisfied that the occupier has not knowingly allowed the premises to be used as gambling premises. The court may make such other orders in relation to the application as it thinks fit. 35
-

- (8) This section does not apply to premises that are declared gambling premises.

43 Powers of search in relation to unlawful gambling aids and documents connected with unlawful gambling

- A police officer may stop, search and detain: 5
- (a) a person whom the officer reasonably suspects of having or conveying:
- (i) an unlawful gambling aid, or
- (ii) any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any gambling activity prohibited by or under this Act, or 10
- (b) a vehicle or vessel that the officer reasonably suspects is being used to convey or store:
- (i) an unlawful gambling aid, or 15
- (ii) any such documents or other records.

44 Forfeiture to Crown

- (1) If a person is convicted of an offence under this Act:
- (a) any money or gaming equipment seized in relation to the offence, or 20
- (b) any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any gambling activity prohibited by or under this Act and that are seized in relation to the offence, 25
- are forfeited to the Crown.
- (2) If a person is convicted of an offence under this Act, the court may order the forfeiture to the Crown of any unlawful gambling aid, and any such documents or other records in the person's possession at the time of the offence if the court is satisfied that: 30
- (a) the unlawful gambling aid, or such documents or records, were used by the person for or in connection with the commission of the offence, and

- (b) the person was, at the time of the offence, carrying on bookmaking or any other activities associated with a bookmaking business.
- (3) A police officer may seize and carry away any thing that may reasonably be suspected to be liable to forfeiture under this section. 5

45 Recovery of certain money involving minors

If:

- (a) any money is stolen or misappropriated by a minor, and
- (b) money is subsequently spent by the minor for the purposes of gambling, 10

the person from whom the money was stolen or misappropriated may, in any court of competent jurisdiction, recover the amount of the money so spent from the person to whom it was paid.

Part 5 Evidence and procedure

46 Evidence of publication of notices

- (1) In any proceedings under this Act, the production of a copy of a newspaper containing a notice:
- (a) under section 21 of the making of an interim declaration, or 5
 - (b) under section 27 of the making of a final declaration or the revocation of an interim declaration, or
 - (c) under section 28 of the revocation of a final declaration,
- is evidence that the notice was duly published in the newspaper 10
on the date appearing on the newspaper.
- (2) In any proceedings under this Act, the production of a copy of the Gazette containing a notice referred to in subsection (1) is evidence that the interim declaration, final declaration or revocation was duly made. 15

47 Participating in unlawful game

In any proceedings under this Act against a person who has participated in an unlawful game, it is not necessary to prove that the person was playing the unlawful game for any money, wager or stake. 20

48 Evidence of premises used as gambling premises

- (1) This section applies to and in respect of any premises that a police officer is authorised to enter under this Act if:
- (a) a police officer is wilfully prevented from, or is obstructed or delayed in, entering or re-entering those premises or any part of those premises, or 25
 - (b) an external or internal door of, or means of access to, those premises is found to be fitted with a bolt, bar, chain, or any means or device for the purpose of preventing, delaying or obstructing the entry or re-entry into those premises of a police officer, or for giving an alarm in case of such entry or re-entry, or 30

-
- (c) a person at or near those premises has a device that is capable of being used to give an alarm to another person on the premises, or
- (d) those premises are found to be fitted or provided with any means of or device for playing at, or betting on, an unlawful game or with any means of or device for concealing, removing or destroying any gaming equipment, or 5
- (e) there is found on those premises, or in the possession of a person on those premises, any gaming equipment, or 10
- (f) there is found on those premises any documents or other records, including any computer records, devices or programs, that are kept or used in connection with, or that relate to, any gambling activity prohibited by or under this Act, or 15
- (g) there is found on those premises any person who has been convicted of an offence relating to any gambling activity that is prohibited under this Act.
- (2) Evidence that, at or about a specified time on a specified day, this section applied to or in respect of specified premises is, until the contrary is proven, evidence for the purposes of an offence under this Act: 20
- (a) that the specified premises were, at or about the specified time of the specified day, kept or used as gambling premises, and 25
- (b) that persons found on the specified premises, at or about the specified time of the specified day, were playing an unlawful game (whether or not any play took place in the presence of a police officer authorised to enter the premises), and 30
- (c) that a person on the specified premises, at or about the specified time of the specified day, was on the specified premises without lawful excuse.

49 Evidentiary provisions relating to betting

- (1) In any proceedings for an offence under this Act, any allegation in the information in respect of the offence that: 35

- (a) a bookmaker accepted bets on a sports event on a date specified in the information and that the sports event was not an event declared by the Minister to be a sports betting event under section 18 of the *Racing Administration Act 1998*, or 5
- (b) betting took place at a racecourse on a date specified in the information and at a time lawful betting could not take place at the racecourse,

is evidence of the truth of the allegation concerned unless the contrary is proved. 10

50 Certain witnesses exempt from liability

A person who is examined as a witness before a court in any proceedings for an offence under this Act is exempt from any criminal or civil liability in relation to that offence if the person receives from the court a certificate in writing to the effect that the person has made true and faithful disclosure to the best of the person's knowledge of all things as to which the person has been examined. 15

51 Proceedings for offences

- (1) Except as provided by subsection (2), proceedings for an offence under this Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. 20
- (2) A second or subsequent offence under section 9, 11, 15, 19, 31, 32, 33, 35 or 36 is to be prosecuted on indictment. However, Part 9A of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made to proceed on indictment) applies to and in respect of any such second or subsequent offence. 25
- (3) If proceedings for an offence under this Act are dealt with summarily before a Local Court, the maximum penalty that may be imposed is 100 penalty units or imprisonment for 2 years (or both), or the maximum penalty provided for the offence, whichever is the lesser. 30

-
- (4) Proceedings for an offence under this Act may be commenced:
- (a) in the case of an offence referred to in subsection (2)—at any time within 2 years after the date on which the offence is alleged to have been committed, or
 - (b) in the case of any other offence—within 6 months after the date on which the offence is alleged to have been committed. 5

52 Penalty notices for certain offences

- (1) An authorised officer may serve a penalty notice on a person if:
- (a) it appears to the officer that the person has committed an offence under this Act or the regulations, and 10
 - (b) the regulations prescribe that offence as an offence for which a penalty notice may be issued.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section. 15
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence. 20
- (5) Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of, the same occurrence. 25
- (6) The regulations may:
- (a) prescribe an offence for the purposes of this section by specifying the offence by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty for an offence if dealt with under this section, and 30
 - (c) prescribe different amounts of penalty for different offences or classes of offences.

- (7) The amount of penalty prescribed under this section for an offence may not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences. 5
- (9) In this section:
authorised officer means, in relation to a particular offence, a person belonging to a class of persons specified in the regulations in relation to that offence. 10

53 Offences by corporations

- (1) If a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that: 15
- (a) the corporation contravened the provision without the actual, imputed or constructive knowledge of the person, or
- (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or 20
- (c) the person, if in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or been convicted under that provision. 25
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations. 30
- (4) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention. 35

54 Order for payment of certain expenses

- (1) If a person is convicted of an offence under section 15 in relation to a prohibited gaming device, or of any other offence under this Act involving the use or operation of a prohibited gaming device, the court may order the person to pay to the Commissioner of Police an amount specified in the order for reasonable expenses incurred by the Police Service in taking possession of, transporting and storing the device. 5
- (2) The Commissioner of Police may recover from a person as a debt in a court of competent jurisdiction any amount that the person is ordered to pay under this section. 10

55 Recognition of interstate gambling offences

For the purposes of determining whether a person is liable to the penalty specified for a second or subsequent offence under a provision of this Act (the *relevant provision*), the second or subsequent offence referred to in the relevant provision is taken to include any offence that has been committed by the person under the law of any other State or Territory, but only if that offence would have been an offence under the relevant provision had it been committed in this State. 15
20

Part 6 Miscellaneous

56 Agreements relating to unlawful gambling unenforceable

- (1) Any agreement, whether oral or in writing, that relates to any form of gambling that is prohibited under this Act has no effect, and no action may be brought or maintained in any court to recover any money alleged to have been won from, or any money paid in connection with, any such form of gambling. 5
- (2) Nothing in subsection (1) applies to or in respect of any form of gambling that is otherwise lawful.

57 Regulations 10

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

58 Savings and transitional provisions 15

Schedule 1 has effect.

59 Amendment of Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

60 Repeal of Gaming and Betting Act 1912 and regulations under that Act 20

- (1) The *Gaming and Betting Act 1912* is repealed.
- (2) The following regulations are repealed:
- (a) *Gaming and Betting (General) Regulation 1991*,
 - (b) *Gaming and Betting (Racecourse Licensing) Regulation 1996*. 25

61 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 30

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

5

Schedule 1 Savings and transitional provisions

(Section 58)

Part 1 Preliminary

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act. 5
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 10
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 15

Part 2 Provisions consequent on enactment of this Act

2 Existing declarations of premises as gaming-houses 20

Any premises the subject of a declaration under section 28 or 32 of the *Gaming and Betting Act 1912*, being a declaration in force immediately before the repeal of the provision concerned by this Act, are taken to be declared gambling premises for the purposes of this Act. 25

Schedule 2 Amendment of Acts

(Section 59)

2.1 Anti-Discrimination Act 1977 No 48

Section 54 Acts done under statutory authority

Omit section 54 (3) (d).

5

2.2 Bookmakers (Taxation) Act 1917 No 15

[1] Section 2 Definitions

Omit the definitions of *Betting auditorium*, *Bookmaker*, *Harness racing*, *Meeting for horse racing*, *Racecourse*, *Race meeting*, *Registered bookmaker* and *Sports betting event*.

10

[2] Section 2 (2)

Insert at the end of the section:

- (2) Expressions used in this Act that are defined in the *Unlawful Gambling Act 1998* or the *Racing Administration Act 1998* have the same meanings as in those Acts.

15

[3] Section 11 Definitions

Omit paragraph (a) from the definition of *Bet*. Insert instead:

- (a) a horse race, harness race or greyhound race, or

[4] Section 11, definition of "Horse race"

20

Omit the definition.

[5] Section 15A Returns

Omit the definitions of *greyhound racing*, *meeting for greyhound racing* and *race meeting* from section 15A (1).

- [6] Section 15A (3)**
Omit "section 57EG of the *Gaming and Betting Act 1912*".
Insert instead "section 24 of the *Racing Administration Act 1998*".
- [7] Section 20 Registration as a bookmaker**
Omit the section. 5
- [8] Sections 21 and 27**
Omit "registered" wherever occurring.
Insert instead "licensed".
- [9] Section 26A Bookmaker's clerk's authority to carry on business**
Omit the section. 10
- [10] Section 36A Power of Committee to direct cancellation or suspension of a bookmaker's registration**
Omit "section 6C of the *Gaming and Betting Act 1912*" from section 36A (1) (b).
Insert instead "section 16 of the *Racing Administration Act 1998*". 15
- [11] Section 36B Power of Committee to direct cancellation or suspension of a bookmaker's clerk's registration**
Omit the section.
- [12] Section 37 Minister may furnish information**
Omit "*Gaming and Betting Act 1912*".
Insert instead "*Unlawful Gambling Act 1998*, the *Racing Administration Act 1998*". 20
- 2.3 Casino Control Act 1992 No 15**
- [1] Section 4 Gaming in licensed casino declared lawful**
Omit "*Gaming and Betting Act 1912*" from section 4 (2).
Insert instead "*Unlawful Gambling Act 1998*". 25

[2] Section 75 Cheques and deposit accounts

Omit "Section 16 (Action not to lie for contracts by way of gaming) of the *Gaming and Betting Act 1912*" from section 75 (7).

Insert instead "Section 56 of the *Unlawful Gambling Act 1998*".

2.4 Crimes Act 1900 No 40

5

Part 8

Insert after Part 7:

Part 8 Unlawful gambling**344 Offence of conducting unlawful gambling operation**

- (1) A person who conducts an unlawful gambling operation is guilty of an offence. 10

Maximum penalty: 1,000 penalty units or imprisonment for 7 years (or both).

- (2) For the purposes of subsection (1), ***an unlawful gambling operation*** means an operation involving at least 2 of the following elements (one of which must be paragraph (d)): 15

- (a) the keeping of at least 2 premises (whether or not either or both are gambling premises) that are used for the purposes of any form of gambling that is prohibited by or under the *Unlawful Gambling Act 1998*, 20

- (b) substantial planning and organisation in relation to matters connected with any such form of prohibited gambling (as evidenced by matters such as the number of persons, and the amount of money and gambling turnover, involved in the operation). 25

(c)	the use of sophisticated methods and technology (for example, telephone diverters, telecommunication devices, surveillance cameras and encrypted software programs) in connection with any such form of prohibited gambling or in avoiding detection of that gambling,	5
(d)	a substantial loss of potential revenue to the State that would be derived from lawful forms of gambling.	
(3)	In any proceedings for an offence under this section, evidence that persons have been in regular attendance at premises suspected of being used for the purposes of any form of gambling that is prohibited by or under the <i>Unlawful Gambling Act 1998</i> is relevant to the matters referred to in subsection (2) (a) or (b).	10 15
(4)	In this section: <i>conduct</i> includes organise or manage. <i>gambling premises</i> has the same meaning as in the <i>Unlawful Gambling Act 1998</i> .	
2.5	Criminal Procedure Act 1986 No 209	20
	Part 9A, Table 1 Indictable offences that are to be dealt with summarily unless prosecuting authority or person charged elects otherwise	
	Insert after item 23 in Part 4 of Table 1:	
	24 Unlawful Gambling Act 1998	25
	A second or subsequent offence under section 9, 11, 15, 19, 31, 32, 33, 35 or 36 of the <i>Unlawful Gambling Act 1998</i> .	

2.6 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Insert in alphabetical order:

Unlawful Gambling Act 1998, section 52 5

2.7 Greyhound Racing Authority Act 1985 No 119

[1] Section 3 Definitions

Omit "*Gaming and Betting Act 1912*" from the definitions of *greyhound racing club* and *greyhound trial track* wherever occurring in section 3 (1). 10
Insert instead "*Racing Administration Act 1998*".

[2] Section 4 Gaming and Betting Act 1912 prevails

Omit the section.

[3] Section 12 Authority may grant or lend money from Fund

Omit "*Gaming and Betting Act 1912*" from section 12 (b). 15
Insert instead "*Racing Administration Act 1998*".

2.8 Harness Racing New South Wales Act 1977 No 57

Section 8 Functions of HRNSW

Omit "*Gaming and Betting Act 1912*" from section 8 (2) (e) (ii). 20
Insert instead "*Racing Administration Act 1998*".

2.9 Liquor Act 1982 No 147

[1] Section 4 Definitions

Omit the definition of *race-meeting* from section 4 (1).
Insert instead:

race meeting has the same meaning as in the *Racing Administration Act 1998*. 5

[2] Section 126 Gaming on licensed premises

Omit "*Gaming and Betting Act 1912*" from section 126 (1) (c).
Insert instead "*Unlawful Gambling Act 1998*".

[3] Section 160 Lawful keeping etc of approved gaming devices 10

Omit "*Gaming and Betting Act 1912*".
Insert instead "*Unlawful Gambling Act 1998*".

2.10 Lotteries and Art Unions Act 1901 No 34

[1] Section 3 Selling or disposing of goods etc by lottery or chance prohibited 15

Omit "*Gaming and Betting Act 1912*" from section 3 (7).
Insert instead "*Unlawful Gambling Act 1998*".

[2] Section 5 Art unions

Omit "*Gaming and Betting Act 1912*" from section 5 (3).
Insert instead "*Unlawful Gambling Act 1998*". 20

2.11 Public Lotteries Act 1996 No 86

[1] Section 6 Public lotteries not unlawful

Omit "*Gaming and Betting Act 1912*" from section 6 (2) (a).
Insert instead "*Unlawful Gambling Act 1998*".

[2] Section 6, note and section 7, note

5

Omit the notes.

[3] Section 7 Contracts or agreements relating to public lotteries enforceable

Omit "section 16 of the *Gaming and Betting Act 1912*".
Insert instead "section 56 of the *Unlawful Gambling Act 1998*".

10

[4] Section 9 Exculpation of certain persons from certain offences

Omit section 9 (1) (c) (iii). Insert instead:

- (iii) is the owner or occupier of any premises used for the purpose of, or in connection with, the conduct of the public lottery, or

15

2.12 Racing Taxation (Betting Tax) Act 1952 No 19

[1] Section 2 Imposition of tax

Omit "as defined in the *Gaming and Betting Act 1912*" from section 2 (1).

[2] Section 3 Imposition of sports betting tax

20

Omit "*Gaming and Betting Act 1912*" from the definition of *sports betting event* in section 3 (4).
Insert instead "*Racing Administration Act 1998*".

2.13 Registered Clubs Act 1976 No 31

[1] Section 54B Gaming on club premises prohibited

Omit "*Gaming and Betting Act 1912*" from section 54B (1).
Insert instead "*Unlawful Gambling Act 1998*".

[2] Section 77 Lawful keeping etc of poker machines

5

Omit "*Gaming and Betting Act 1912*" from section 77 (1).
Insert instead "*Unlawful Gambling Act 1998*".

2.14 Search Warrants Act 1985 No 37

Section 10 Definitions

Omit "section 22 or 40 of the *Gaming and Betting Act 1912*," from the definition of *search warrant*. 10

2.15 Sporting Bodies' Loans Guarantee Act 1977 No 3

Section 2 Definitions

Omit section 2 (b).

2.16 Sydney Turf Club Act 1943 No 22

15

[1] Section 3 Definitions

Omit "as defined in the *Gaming and Betting Act 1912*" from the definition of *Race meeting*.

[2] Sections 5 (5) and 7 (1) (c)

Omit "*Gaming and Betting Act 1912*" wherever occurring.
Insert instead "*Racing Administration Act 1998*".

2.17 Totalizator Act 1997 No 45**[1] Section 5 Definitions**

5

Omit "*Gaming and Betting Act 1912*" from the definition of *authorised betting auditorium* in section 5 (1).
Insert instead "*Racing Administration Act 1998*".

[2] Section 5 (1), definition of "racecourse"

Omit "*Gaming and Betting Act 1912*".
Insert instead "*Racing Administration Act 1998*".

10

[3] Section 7 Conduct of totalizator by licensee not unlawful

Omit "*Gaming and Betting Act 1912*" from section 7 (1).
Insert instead "*Unlawful Gambling Act 1998*".

[4] Section 8 Contracts or agreements relating to totalizator betting enforceable

15

Omit "section 16 of the *Gaming and Betting Act 1912*" from section 8 (2).
Insert instead "section 56 of the *Unlawful Gambling Act 1998*".

[5] Section 8, note

20

Omit the note.

[6] Section 10 Exculpation of certain persons from certain offences

Omit section 10 (1) (c) (iii). Insert instead:

(iii) is the owner or occupier of any premises used for the purpose of, or in connection with, the conduct of the totalizator.

5

[7] Sections 12–15 and 74

Omit “section 57EA of the *Gaming and Betting Act 1912*” wherever occurring.

Insert instead “section 18 of the *Racing Administration Act 1998*”.

[8] Schedule 2 Savings, transitional and other provisions

10

Omit “provisions of the *Gaming and Betting Act 1912*” from clause 11 (5) (c).

Insert instead “*Racing Administration Act 1998*”.