

Passed by both Houses



New South Wales

# Casino Control Amendment Bill 2001

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2001*



New South Wales

## **Casino Control Amendment Bill 2001**

Act No , 2001

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An Act to amend the *Casino Control Act 1992* so as to merge the supervisory functions of the Casino Control Authority and the Director of Casino Surveillance; to extend the powers of the Authority in relation to the conduct of inquiries under that Act; to amend other Acts and instruments; and for other purposes.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Casino Control Amendment Act 2001*.

**2 Commencement**

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

**3 Amendment of Casino Control Act 1992 No 15**

The *Casino Control Act 1992* is amended as set out in Schedules 1 and 2.

**4 Amendment of other Act and instruments**

Each Act and instrument referred to in Schedule 3 is amended as set out in that Schedule.

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## **Schedule 1 Amendment of Casino Control Act 1992 in relation to merger of supervisory functions**

(Section 3)

**[1] Section 3 Definitions**

Omit the definition of *Director* from section 3 (1).

**[2] Section 3 (1), definition of “inspector”**

Omit “Director”. Insert instead “Authority”.

**[3] Section 3 (1), definition of “key official”**

Omit paragraph (b).

**[4] Section 14 Investigation of application**

Omit “and the Director are” from section 14 (3). Insert instead “is”.

**[5] Section 16 Cost of investigations to be paid by applicant**

Omit “and the Director” from section 16 (1).

**[6] Section 35A Cost of investigations into certain major changes**

Omit “and the Director” from section 35A (2).

**[7] Section 50**

Omit the section. Insert instead:

**50 Authority to investigate applications**

- (1) The Authority is to investigate and inquire into each application for a licence.
- (2) If the Authority proposes to refuse an application, it must notify the applicant in writing of that fact and allow the applicant at least 14 days to make submissions to the Authority as to why the application should not be refused.

**[8] Section 51 Cost of investigations to be paid by applicant**

Omit “Director” wherever occurring. Insert instead “Authority”.

**[9] Section 52 Determination of applications**

Omit “the report and recommendation of the Director” from section 52 (1).  
Insert instead “the results of its investigations and inquiry”.

**[10] Section 59 Disciplinary action against licensee**

Omit section 59 (2). Insert instead:

- (2) The Authority may make such inquiries as it thinks fit into the question of whether there are grounds for disciplinary action against a licensee.

**[11] Section 59 (3)**

Omit “If the Director recommends that disciplinary action be taken”.  
Insert instead “If as a consequence of such an inquiry the Authority proposes to take disciplinary action”.

**[12] Section 59 (3) (a)**

Omit “recommendation”. Insert instead “proposal”.

**[13] Section 59 (4)**

Omit “the Director’s recommendation”.  
Insert instead “the results of its inquiries”.

**[14] Section 69 Unsatisfactory gaming equipment**

Omit section 69 (1). Insert instead:

- (1) The Authority may direct a casino operator to rectify to its satisfaction, or to destroy, gaming equipment that it has directed the operator to cease to have available for use on the ground that it is unsatisfactory.

- [15] Section 78 Police powers of entry to casino**  
Omit “, the Director” wherever occurring.
- [16] Section 79 Exclusion of persons from casino**  
Omit “Director” wherever occurring in section 79 (1) and (3).  
Insert instead “Authority”.
- [17] Section 79 (4)**  
Omit “and to the Director”.
- [18] Section 80 Review of exclusion order**  
Omit section 80 (3). Insert instead:  
(3) The Authority may make such inquiries as it thinks fit into the question of whether or not the exclusion order should be overruled.
- [19] Section 80 (4)**  
Omit “Director”. Insert instead “Authority”.
- [20] Section 80 (5)**  
Omit “the report of the Director”. Insert instead “the results of its inquiries”.
- [21] Section 83 List of excluded persons**  
Omit “Director” wherever occurring in section 83 (1) and (2).  
Insert instead “Authority”.
- [22] Section 83 (3) (d)**  
Omit the paragraph.
- [23] Part 7, Division 1 The Director of Casino Surveillance**  
Omit the Division.
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Casino Control Amendment Bill 2001

Schedule 1      Amendment of Casino Control Act 1992 in relation to merger of  
supervisory functions

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**[24] Section 106 Appointment and control etc of inspectors**

Omit “Director” wherever occurring. Insert instead “Authority”.

**[25] Section 109 Functions of inspectors**

Omit “Director” from section 109 (e). Insert instead “Authority”.

**[26] Section 110 Inspectors to investigate complaints**

Omit “Director” from section 110 (3). Insert instead “Authority”.

**[27] Section 111 Powers of inspectors**

Omit “Director” from section 111 (1) (d). Insert instead “Authority”.

**[28] Section 126 Banking**

Omit “the Director” from section 126 (3). Insert instead “the Authority”.

**[29] Section 136 Persons engaged in administration of Act to be of highest integrity**

Omit section 136 (1) (b).

**[30] Section 136 (3) (a)**

Omit “or consultant to the Authority”.

Insert instead “, consultant to the Authority or inspector”.

**[31] Section 136 (3) (b)**

Omit the paragraph.

**[32] Section 141 Functions of the Authority**

Omit section 141 (2) (d).

**[33] Section 141 (2) (i), (j) and (k)**

Omit section 141 (2) (i). Insert instead:

- (i) to appoint, supervise, direct and control inspectors under this Act,

- 
- (j) to directly supervise and inspect the operations of a casino and the conduct of gaming in a casino,
  - (k) to detect offences committed in or in relation to a casino and to prosecute offences under this Act.

**[34] Section 145 Staff etc**

Omit “and the Director to exercise his or her functions” from section 145 (1) (a).

**[35] Section 146 Key officials—restrictions on employment etc with casino operator etc**

Omit “or the Director” wherever occurring.

**[36] Section 146 (3) (a) and (b)**

Omit “Director” wherever occurring. Insert instead “Authority”.

**[37] Section 147 Restrictions on employment etc of former key officials**

Omit “or former Director” from section 147 (3).

**[38] Section 157 Arrangements for supply of Police records**

Omit “and the Director” from section 157 (1).

**[39] Section 166 Evidence**

Omit “or the Director” from section 166 (d).

**[40] Section 168 Prosecution for offences**

Omit section 168 (4) (a).

**[41] Section 168A Penalty notices**

Omit “, the Director” from the definition of *authorised officer* in section 168A (10).



## **Schedule 2 Amendment of Casino Control Act 1992 in relation to other matters**

(Section 3)

### **[1] Section 4A**

Insert after section 4:

#### **4A Primary objects of Act**

- (1) Among the primary objects of this Act are:
  - (a) ensuring that the management and operation of a casino remain free from criminal influence or exploitation, and
  - (b) ensuring that gaming in a casino is conducted honestly, and
  - (c) containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.
- (2) All persons having functions under this Act are required to have due regard to the objects referred to in subsection (1) when exercising those functions.

### **[2] Section 19 Authority to define casino premises**

Omit section 19 (4).

### **[3] Section 76 Junkets and inducements**

Omit “individually” wherever occurring in section 76 (1).

### **[4] Section 80 Review of exclusion order**

Insert “by the Authority or” after “was given” in section 80 (1).

**[5] Section 80 (1A)**

Insert after section 80 (1):

(1A) An exclusion order given by the Authority, or at the direction of the Commissioner of Police, may not be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court or tribunal in any legal proceedings, or restrained, removed or otherwise affected by proceedings in the nature of prohibition or mandamus.

**[6] Section 81 Commissioner of Police may direct that person be excluded from casino and casino precinct**

Insert after section 81 (7):

(7A) A direction given under this section may not be challenged, reviewed, quashed or called into question on any grounds whatsoever before any court or tribunal in any legal proceedings, or restrained, removed or otherwise affected by proceedings in the nature of prohibition or mandamus.

**[7] Section 84 Excluded person not to enter casino**

Omit "20 penalty units" from section 84 (1).

Insert instead "50 penalty units or imprisonment for 12 months, or both".

**[8] Section 110 Inspectors to investigate complaints**

Insert "with due diligence" after "the complaint" in section 110 (1).

**[9] Section 124 Approved system of controls and procedures to be implemented**

Insert after section 124 (4):

(5) A system approved for a casino under this section may contain different internal controls, or different administrative or accounting procedures, for different parts of the casino.

**[10] Section 136 Persons engaged in administration of Act to be of highest integrity**

Insert ", or to hold," after "to be appointed to" wherever occurring in section 136 (2) and (7).

**[11] Section 136 (4)**

Insert “(in the case of proposed appointments) and may (in all other cases)” after “must” wherever occurring.

**[12] Section 136 (4)**

Insert “for appointment to the position, or the holder of the position, as the case requires” after “any person being considered”.

**[13] Section 136 (4A)**

Insert after section 136 (4):

- (4A) In carrying out any investigation or inquiry for the purposes of this section, the Authority must comply with such guidelines as the Authority may from time to time establish in connection with the conduct of such an investigation or inquiry.

**[14] Section 136 (6), (6A) and (6B)**

Omit section 136 (6). Insert instead:

- (6) If a person fails to co-operate with an investigation or inquiry under subsection (4) in relation to a position to which this section applies:
- (a) in the case of a candidate for appointment to such a position, the person is not eligible to be appointed to the position, and
  - (b) in the case of the holder of such a position, that person is liable to be removed from the position.
- (6A) For the purposes of subsection (6), a person fails to co-operate with an investigation or inquiry under subsection (4) if:
- (a) the person refuses or fails to comply with a request for information from the person conducting the investigation or inquiry, or
  - (b) the person refuses or fails to comply with a request for information from the Commissioner of Police in relation to the preparation of a report under subsection (5), or
  - (c) the person refuses or fails to comply with a request for consent under subsection (5).

- (6B) No compensation is payable to any person as a consequence of the holder of a position to which this section applies being removed from the position under subsection (6).

**[15] Sections 143A, 143B and 143C**

Insert after section 143:

**143A Attendance of witnesses**

- (1) The person presiding at an inquiry being conducted by or on behalf of the Authority under section 143:
  - (a) has the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923*, and
  - (b) if the person is a Judge of the Supreme Court, or is a legal practitioner of at least 7 years' standing whose instrument of appointment to preside at the inquiry expressly so provides, has the powers and authorities conferred on a commissioner by Division 2 of Part 2 of the *Royal Commissions Act 1923* (except for section 17 (4) and (5)).
- (2) The *Royal Commissions Act 1923* applies to any witness summoned by or before the person presiding at the inquiry (except for section 13 and, subject to subsection (1) (b), Division 2 of Part 2).

**143B Restriction on publication of information**

- (1) The person presiding at an inquiry being conducted by or on behalf of the Authority under section 143 may, by order in writing, direct that:
  - (a) any evidence given at the inquiry, or
  - (b) the contents of any document, or a description of any thing, produced at the inquiry, or
  - (c) any information that might enable a person who has given or may be about to give evidence at the inquiry to be identified or located, or
  - (d) the fact that any person has given or may be about to give evidence at the inquiry,

is not to be published at all, or is not to be published except in such manner, and to such persons, as the person presiding at the inquiry may specify.

- (2) Such a direction is not to be given unless the person presiding at the inquiry is satisfied that the direction is necessary in the public interest or that there are other exceptional circumstances that require the direction to be given.
- (3) A person must not make a publication in contravention of a direction given under this section.

Maximum penalty (subsection (3)): 50 penalty units or imprisonment for 12 months, or both.

**143C Referral of information to Commissioner of Police**

- (1) This section applies to any information obtained by the Authority as to the existence, or possible existence, of major or systemic criminal activity in connection with a casino.
- (2) After consulting with the Commissioner of Police, the Authority may refer any such information to the Commissioner.
- (3) The Commissioner of Police is to conduct such investigations and inquiries into the matters to which the information relates and cause a report containing the results of those investigations and inquiries to be sent to the Authority.
- (4) The Authority may take such action as it considers appropriate in the light of the report, but in so doing must have regard to any recommendations of the Commissioner of Police contained in the report.

**[16] Section 148 Secrecy**

Insert after section 148 (2):

- (2A) Information to which section 143C applies may not be divulged under subsection (2) except with the consent of the Commissioner of Police.

**[17] Section 148 (6)**

Renumber the bulleted items of section 148 (6) as paragraphs (a), (b), (c) and (f).

**[18] Section 148 (6) (d) and (e)**

Insert after section 148 (6) (c) (as renumbered by item [16]):

- (d) the Police Service or the police force of another State or a Territory,
- (e) the Australian Federal Police,

**[19] Section 148 (7) (a)**

Renumber the bulleted items of section 148 (7) (a) as subparagraphs (i)–(iii).

**[20] Section 148 (7) (b)**

Renumber the bulleted items of section 148 (7) (b) as subparagraphs (i)–(iii).

**[21] Schedule 3 Matters for regulations**

Omit item 11. Insert instead:

**11 Publication of information**

- (1) Requiring the publication of information, and the display of notices, with respect to:
  - (a) the chances of winning or losing associated with the conduct of the various games available in a casino, and
  - (b) the availability of counselling and other services to deal with the social and other problems that can arise from gambling.
- (2) Prohibiting the disclosure of information identifying the winners of prizes in games conducted in a casino.

**[22] Schedule 3, item 14**

Insert after item 13:

**14 Witnesses' expenses**

Providing for the payment of expenses to witnesses attending inquiries conducted by or on behalf of the Authority.

**[23] Schedule 4 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Casino Control Amendment Act 2001*

**[24] Schedule 4, Part 6**

Insert after Part 5:

**Part 6 Casino Control Amendment Act 2001**

**8 Definitions**

In this Part:

*appointed day* means the day appointed under section 2 of the 2001 amending Act for the commencement of the provision in which that expression occurs.

*former DCS officer* means a person who, immediately before the appointed day, held a former DCS position, but does not include a person who was then merely acting in that position.

*former DCS position* means a position within the Department of Gaming and Racing that is taken to have been abolished as referred to in clause 9 (1).

*new CCA position* means a position within the organisational structure of the Authority that is taken to have been created as referred to in clause 9 (1).

*the 2001 amending Act* means the *Casino Control Amendment Act 2001*.

*transferred officer* means a former DCS officer who holds a new CCA position.

**9 Transfer of certain positions**

- (1) On the appointed day, the following positions within the Department of Gaming and Racing are taken to have been abolished and corresponding positions are taken to have been created within the organisational structure of the Authority:
  - (a) Director of Casino Surveillance (1 position),

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- (b) Secretary to the Director of Casino Surveillance (1 position),
  - (c) Executive Assistant to the Director of Casino Surveillance (1 position),
  - (d) Legal Officer (1 position),
  - (e) Licensing Supervisor (1 position),
  - (f) Licensing Investigator (1 position),
  - (g) Manager Audit (1 position),
  - (h) Audit Supervisor (1 position),
  - (i) Manager Inspector (1 position),
  - (j) Supervising Inspector (5 positions),
  - (k) Inspector (15 positions).
- (2) The grade and position description for each position so created are to be the same as the grade and position description for the corresponding position within the Department of Gaming and Racing were immediately before the appointed day.
  - (3) Until varied according to law, the conditions of employment (including conditions as to remuneration) applicable to a new CCA position held by a transferred officer are to be the same as the conditions of employment that, immediately before the appointed day, were applicable to the corresponding former DCS position.
  - (4) Despite subclause (3), the conditions of employment applicable to a new CCA position held by a transferred officer are subject to the same variations applying to Public Service positions generally as would have applied to the position had it remained a Public Service position.

#### **10 Transfer and terms of employment of former DCS officers**

- (1) On the appointed day, each person who, immediately before that day, held a former DCS position (otherwise than on an acting basis) is taken to be the holder of the corresponding new CCA position.
- (2) Schedule 2, and any provision of the regulations of the kind referred to in clause 8 of Schedule 2, do not apply to a transferred officer while the holder of a new CCA position.



- (3) In his or her capacity as a member of staff of the Authority, a transferred officer is under the control and direction of the Chief Executive of the Authority.
- (4) An appeal by a transferred officer who is the holder of a new CCA position does not lie to the Government and Related Employees Appeals Tribunal concerning a promotional matter unless it relates to an appointment to some other new CCA position.

**11 Right of return to Public Service**

- (1) A transferred officer who is the holder of a new CCA position may, at any time after the appointed day, apply for a Public Service position as if the officer were still a public servant.
- (2) A transferred officer who is the holder of a new CCA position, and who applies for a Public Service position or is appointed to or employed in a Public Service position, is, for the purposes of the *Public Sector Management Act 1988*, the *Government and Related Employees Appeal Tribunal Act 1980* and the *Industrial Relations Act 1996* taken to be a public servant in relation to the application, appointment or employment.

**12 Director of Casino Surveillance**

- (1) The office of Director of Casino Surveillance is abolished.
- (2) Any act or omission of the Director of Casino Surveillance that occurred before the appointed day is taken to be an act or omission of the Authority.

**13 Inspectors**

Any person who, immediately before the appointed day, was an inspector appointed under section 106 is taken to have been appointed under that section by the Authority.

**14 Costs of investigations**

- (1) Costs incurred by the Director, as referred to in sections 16, 35A and 51 as in force immediately before the appointed day, remain payable to the Authority despite the amendments made to those sections by the 2001 amending Act.

- (2) A certificate in respect of any such costs may be issued under section 166 (d) on or after the appointed day, and any such certificate issued before the appointed day continues to have effect, despite the amendment of that paragraph by the 2001 amending Act.

**15 Referred applications**

Section 52, as amended by the 2001 amending Act, extends to applications made before the appointed day, and applies to any such application despite its having been referred to the Director under section 50, as in force immediately before the appointed day.

**16 Exclusion orders**

- (1) Any exclusion order made by the Director under section 79 before the appointed day is taken to have been made by the Authority.
- (2) Sections 80 and 81, as amended by the 2001 amending Act, extend to any exclusion order made before the appointed day.

**17 Integrity testing**

Section 136, as amended by the 2001 amending Act, extends to any person who holds a position to which he or she was appointed before the appointed day.

**18 Conduct of inquiries**

- (1) Section 143A, as inserted by the 2001 amending Act, applies only to inquiries commenced on or after the appointed day.
- (2) Section 143B, as inserted by the 2001 amending Act, extends to inquiries commenced before the appointed day.
- (3) Section 143C, as inserted by the 2001 amending Act, extends to information obtained by the Authority before the appointed day.

**19 Restrictions on employment etc of former key officials**

Despite section 147 (3), as amended by the 2001 amending Act, an exemption under that subsection may not be granted in respect of a former Director of Casino Surveillance.

**20    Secrecy**

Section 148, as amended by the 2001 amending Act, extends to any information acquired by a person before the appointed day.

**21    Prosecutions by Director**

- (1) Any proceedings instituted before the appointed day by the Director, as referred to in section 168 (4) (a), are taken to have been instituted by the Authority or (if the Authority so directs) by such other person as may be specified in that direction.
- (2) For the purposes of section 168 (4) (c), a person specified in such a direction is taken to be acting with the written authority of the Authority.

## **Schedule 3 Amendment of other Act and instruments**

(Section 4)

### **3.1 Criminal Records Regulation 1999**

#### **Clause 9**

Omit the clause. Insert instead:

#### **9 Disclosure to Casino Control Authority or Director of Liquor and Gaming**

Section 13 of the Act does not apply to the disclosure of information concerning a spent conviction by the officer in charge of the Criminal Records Unit of the Police Service to any of the following persons:

- (a) the Casino Control Authority,
- (b) the Director of Liquor and Gaming, or a person authorised in writing by the Director.

### **3.2 Liquor Regulation 1996**

#### **Clause 90 Divulging of information**

Omit clause 90 (b). Insert instead:

- (b) the Casino Control Authority.

### **3.3 Public Sector Management Act 1988 No 33**

#### **Schedule 3B, Part 2**

Omit the following position:

Director of Casino Surveillance

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### **3.4 Registered Clubs Regulation 1996**

#### **Clause 53 Divulging of information**

Omit clause 53 (1) (b). Insert instead:

- (b) the Casino Control Authority.