

Explanatory Statement

LICENSING (DIRECTOR-GENERAL) REPEAL BILL 2019

SERIAL NO. 115

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Bill repeals the *Licensing (Director-General) Act 2014* and amends the *Associations Act 2003*, the *Co-operatives (National Uniform Legislation) Act 2015*, the *Gaming Control Act 1993*, the *Gaming Machine Act 1995*, the *Kava Management Act 1998*, the *Private Security Act 1995*, the *Racing and Betting Act 1983*, the *Tobacco Control Act 2002*, the *Totalisator Licensing and Regulation Act 2000* and various subordinate legislation.

The Bill amends the references to the Director-General, as established under the *Licensing (Director-General) Act 2014*, in the above legislation as the relevant office holder for the exercise of powers and functions under the legislation. Where required, a new statutory office holder relevant to the legislation is established and references to the Director-General are replaced with references to the new statutory office holder.

The powers and functions of the Director-General found within the *Licensing (Director-General) Act 2014* such as the ability to appoint a delegate, the provisions of annual reports and the approval of forms, along with power to review decisions of delegates of the Director-General are retained by including specific provisions in the Acts to be exercised by the new statutory office holders.

The Bill also provides for amendments of a statute law nature – making corrections and clarifications. Specifically, these are repeal of regulation 7 in the *Gaming Control (Gaming Machines) Regulations 1995* and removal of a reference to Chairperson in section 77(1) of the *Gaming Control Act 1993* as redundant provisions.

NOTES ON CLAUSES

Part 1 Preliminary matters

Clause 1. Short title

This clause is a standard formal clause providing for the short title of the Act.

Once passed, the Act may be cited as the *Licensing (Director-General) Repeal Act 2019*.

CABINET-IN-CONFIDENCE

2

Clause 2. Commencement

This clause is a standard formal clause providing for the commencement of the Act.

The Act will commence on the day fixed by the Administrator by Government *Gazette* notice.

Part 2 Repeal of *Licensing (Director-General) Act 2014*

Clause 3. Act repealed

This clause provides for the repeal of the *Licensing (Director-General) Act 2014*.

The remaining clauses of this Act provide for consequential amendments to legislation arising from the repeal relating to references to the Director-General and the powers and functions that were exercised by the Director-General under the repealed Act. The references to the Director-General in legislation throughout the statute book of the Northern Territory are replaced with a reference to a new statutory office holder appointed under the various affected Acts to exercise the powers and functions previously exercised by the Director-General in respect of the affected Acts.

Part 3 Amendment of *Gaming Control Act 1993*

Clause 4. Act amended

This clause is a standard formal clause providing that Part 3 of this Act amends the *Gaming Control Act 1993*.

Clause 5. Section 3 amended (Definitions)

This clause consists of four subclauses which amend various definitions in section 3 of the *Gaming Control Act 1993* which provides the definitions for the Act.

Subclause 1 omits the definition of 'Director-General'.

Subclause 2 inserts a definition for 'delegate decision' and 'reviewable decision' referring to section 68CA (as inserted in clause 11 of this Act), and provides a definition for the new position of Director as Director of Gaming Control appointed under section 3B (as inserted in clause 6 of this Act).

Subclause 3 amends the definition of 'affected person' for a reviewable decision with amendment of the section providing for who is an affected person to be section 68CA (as inserted in clause 11 of this Act).

Subclause 4 amends the definition of 'approved' to omit reference to Director-General and inserts Director.

Clause 6. Section 3B inserted

This clause inserts a new section 3B before section 4 in Part 2 of the *Gaming Control Act 1993*.

New Section 3B provides for the appointment of a person to be the Director of Gaming Control. This position replaces the Director-General as the statutory office holder for decisions under the *Gaming Control Act 1993*.

CABINET-IN-CONFIDENCE

3

Clause 7. Section 4 amended

This clause amends section 4 of the *Gaming Control Act 1993* (including the heading in subclause 1) to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 8. Sections 5 to 7 inserted

This clause inserts section 5 to 7 after section 4 of the *Gaming Control Act 1993* to provide:

- in section 5, a delegation power enabling the Director to delegate powers and functions other than the power to review a decision of a delegate under Part 5B;
- in section 6, a requirement for the Director to provide an annual report on the operation of the Act; and
- in section 7, that the Director may approve forms for the Act.

These provisions include powers and functions that were held by the Director-General under the *Licensing (Director-General) Act 2014* in relation to the *Gaming Control Act 1993*.

Clause 9. Section 14 amended (Regulatory principles)

This clause omits the reference to 'Director-General' in section 14 of the *Gaming Control Act 1993* and replaces the reference with a reference to 'Director'.

Clause 10. Section 15 amended (Gaming inspectors)

This clause omits all the references to 'Director-General' in section 15 of the *Gaming Control Act 1993* and replaces the references with a reference to 'Director'.

Clause 11. Part 5B replaced

This clause repeals Part 5B of the *Gaming Control Act 1993* relating to review and replaces with a new Part 5B 'Review of Decisions' containing sections 68CA to 68CH.

The inserted sections set out the process for review of decisions made under the *Gaming Control Act 1993* and incorporates a process for review of a delegate decision as previously provided in the *Licensing (Director-General) Act 2014*, including that the rules of natural justice must be complied with.

A delegate who makes a decision must give notice of the decision (new section 68CB) which includes that the affected person may apply for a review by the Director (under new section 68CC). After making a decision (under new section 68CF) the Director must give notice of the decision (under new section 68CG) advising that the affected person may seek review by the Northern Territory Civil and Administrative Tribunal (NTCAT). The power for the NTCAT to review a decision made in respect of the *Gaming Control Act* is retained.

Clause 12. Section 79 amended

Section 79 provides for protection from liability persons exercising powers and functions under the *Gaming Control Act 1993*.

This clause amends the heading of the section to clarify the purpose of the section relates to protection against liability and inserts the Director as a person exercising powers and functions under the Act who is protected from liability.

CABINET-IN-CONFIDENCE

4

Clause 13. Part 7, Division 6 inserted

This clause inserts a new Division 6 after section 93, containing new sections 94 to 97 into Part 7 of the *Gaming Control Act 1993* to provide for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 94 provides for relevant definitions for the Division including references to the Director-General and repealed Act.

New section 95 provides that for applications made to the Director-General for a decision where a decision had not been made before the commencement of this Act, that the Director decides the application as if the application had been made to the Director and not to the Director-General.

New section 96 provides that for applications made for reviews of delegate decisions, where a review has not been completed before the commencement of this Act, that the review is to be completed by the Director as if the review had been made to the Director and not the Director-General.

New Section 97 provides that any statutory instruments, appointments, approved forms etc. made by the Director-General prior under the *Gaming Control Act 1993* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director. A delegation also continues until amended or revoked.

Clause 14. Act further amended

This clause refers to Schedule 1 of this Act which further amends the *Gaming Control Act 1993* by omitting references to the Director-General and replacing the references with references to the Director.

Part 4 Amendment of *Gaming Machine Act 1995*

Clause 15. Act amended

This clause is a standard formal clause providing that Part 4 of this Act amends the *Gaming Machine Act 1995*.

Clause 16. Section 3 amended (Definitions)

This clause consists of four subclauses which amend various definitions in Section 3 of the *Gaming Machine Act 1995*.

Subclause 1 omits the definition of 'Director-General'.

Subclause 2 inserts a definition of 'delegate decision' and 'reviewable decision' as set out in section 166A (inserted in clause 22 of this Act) and inserts a definition of the new position of 'Director' as Director of Gaming Machines appointed under section 3B (as inserted in clause 17 of this Act).

Subclause 3 amends the definition of 'affected person' for a reviewable decision with amendment of the section providing for who is an affected person to be section 166A (as inserted in clause 22 of this Act).

Subclause 4 amends the definition of 'seal' to omit reference to 'Director-General' and inserts reference to 'Director'.

CABINET-IN-CONFIDENCE

5

Clause 17. Sections 9 to 12 inserted

This clause inserts section 9 to 12 before section 17 in Part 2 of the *Gaming Machine Act 1995* to provide:

- in section 9, for the appointment of a person to be the Director of Gaming Machines. This position replaces the Director-General as the statutory office holder for decisions under the *Gaming Machine Act 1995*;
- in section 10, a power for delegation enabling the Director to delegate powers and functions other than the power to review a decision of a delegate under Part 9A, Division 2;
- in section 11, that the Director must provide an annual report on the operation of the Act to the Minister; and
- in section 12, that the Director may approve forms for the Act.

These provisions include the appointment of the a relevant statutory office holder to undertake the powers and functions that were held by the Director-General under the *Licensing (Director-General) Act 2014* in relation to the *Gaming Machine Act 1995*.

Clause 18. Section 17 amended

This clause amends section 17 of the *Gaming Machine Act 1995* (including the heading in subclause 1) to omit all references to 'Director-General' and replace each reference with a reference to 'Director'.

Clause 19. Section 20 amended (Inspectors)

This clause amends section 20 of the *Gaming Machine Act 1995* to omit all references to 'Director-General' and replaces each of the references with a reference to 'Director'.

Clause 20. Section 21 amended (Authorised persons)

This clause amends section 21 of the *Gaming Machine Act 1995* to omit all references to 'Director-General' and replaces each of the references with a reference to 'Director'.

Clause 21. Section 22A amended

This clause amends section 22A of the *Gaming Machine Act 1995* (including the heading in subclause 1) to omit all references to 'Director-General' and replaces each of the references with a reference to 'Director'.

Clause 22. Sections 166A to 166D replaced

This clause replaces section 166A to 166D of the *Gaming Machine Act 1995* relating to review of decisions and replaces with a new sections 166A to 166H.

The inserted sections set out the process for review of decisions made under the *Gaming Machine Act 1995* and incorporates a process for review of a delegate decision as had been contained in the *Licensing (Director-General) Act 2014*, including that the rules of natural justice must be complied with.

A delegate who makes a decision must give notice of the decision (new section 166B) which includes that the affected person may apply for a review by the Director (under new section 166C). After making a decision (under new section 166F) the Director must give notice of the decision (under new section 166G) advising that the affected person may seek review by the

CABINET-IN-CONFIDENCE

6

NTCAT. The power for the NTCAT to review a decision made in respect of the *Gaming Machine Act 1995* is retained.

Clause 23. Section 184 amended (Protection from liability)

Section 184 provides a protection from liability for persons exercising powers and functions under the *Gaming Machine Act 1995*.

This clause inserts the Director in section 184(1)(b) as a person exercising powers and functions under the Act who is protected from liability.

Clause 24. Part 13 inserted

This clause inserts a new Part 13 incorporating new sections 205 to 208 into the *Gaming Machine Act 1995* to provide for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 205 provides the relevant definitions for the Division including references to the Director-General and repealed Act.

New section 206 provides that for applications made to the Director-General for a decision where a decision had not been made before the commencement of this Act, that the Director decides the application as if it had been made to the Director and not the Director-General.

New section 207 provides that for applications made for reviews of delegate decisions, where a review has not been completed before the commencement of this Act, that the review is to be completed by the Director as if the review had been made to the Director and not the Director-General.

New Section 208 provides that any statutory instruments, appointments, approved forms etc made by the Director-General prior under the *Gaming Machine Act 1995* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director. A delegation also continues until amended or revoked.

Clause 25. Schedule amended (Reviewable decisions)

This clause amends the schedule which sets out reviewable decisions under the *Gaming Machine Act 1995* to omit references to sections 166A and 166D and replaces with a reference to new 166A as inserted in clause 22 of this Act.

Clause 26. Act further amended

This clause refers to Schedule 2 of this Act which further amends the *Gaming Machine Act 1995* to omit references to 'Director-General' and replaces each reference with a reference to 'Director'.

Part 5 **Amendment of *Kava Management Act 1998***

Clause 27. **Act amended**

This clause is a standard formal clause providing that Part 5 of this Act amends the *Kava Management Act 1998*.

Clause 28. **Section 3 amended (Interpretation)**

This clause consists of four subclauses which amend various definitions contained in section 3 of the *Kava Management Act 1998*.

Subclause 1 omits the definition of 'Director-General'.

Subclause 2 inserts a definition for 'delegate decision' and 'reviewable decision' as defined in section 78 of that Act (as inserted in clause 33 of this Act) and a definition referring to the new position of 'Director' as Director of Kava Management appointed under section 8A (as inserted in clause 31 of this Act).

Subclause 3 amends the definition of 'affected person' for a reviewable decision with amendment of the section providing that an affected person is as defined in amended section 78 (as inserted in clause 33 of this Act).

Subclause 4 inserts a note at the end of section 3(1) referring to the application of the *Interpretation Act 1978*.

Clause 29. **Section 7 amended (Delegation)**

Section 7 of the *Kava Management Act 1998* provides for the power to delegate the powers and functions under that Act.

This clause amends section 7 to insert a reference to the Director and provide that the Director may delegate any powers and functions other than a review of a delegate decision to a public sector employee other than a power under Part 10 of that Act. This is the same power to delegate as was held by the Director-General.

Clause 30. **Section 8 amended (Guidelines)**

Section 8 of the *Kava Management Act 1998* provides that guidelines may be made under that Act.

This clause omits the references to 'Director-General' in section 8 and replaces with references to 'Director'.

Clause 31. **Part 1A inserted**

This clause inserts a new Part 1A after section 8 of the *Kava Management Act 1998* to provide:

- in new section 8A, for the appointment of a person to be the Director of Kava Management. This position replaces the Director-General as the statutory office holder for decisions under the *Kava Management Act 1998*;
- in new section 8B, a requirement for the Director to provide an annual report on the operation of the Act to the Minister;
- in new section 8C, that the Director may approve forms for the Act; and

CABINET-IN-CONFIDENCE

8

- in new section 8D, a provision protecting a person from liability for acts done in good faith in exercising a power or function of the Director under the Act.

These provisions include the appointment of the a relevant statutory office holder to undertake the powers and functions that were held by the Director-General under the *Licensing (Director-General) Act 2014* in relation to the *Kava Management Act 1998*.

Clause 32. Part 6, Division 1 heading replaced

This clause omits the heading of Part 6, Division 1 of the *Kava Management Act 1998* containing reference to the Director-General and replaces with a new heading referring to the Director.

Clause 33. Sections 78 to 81 replaced

This clause replaces sections 78 to 81 of the *Kava Management Act 1998* relating to review of decisions.

The inserted sections set out the process for review of decisions made under the *Kava Management Act 1998* and incorporate a process for review of a delegate decision as was found in the *Licensing (Director-General) Act 2014*, including that the rules of natural justice must be complied with.

A delegate who makes a decision must give notice of the decision (new section 79) which includes that the affected person may apply for a review by the Director (under new section 80). After making a decision (under new section 82A) the Director must give notice of the decision (under new section 82B) advising that the affected person may seek review by the NTCAT. The power for the NTCAT to review a decision made in respect of the *Kava Management Act 1998* is retained.

Clause 34. Part 14 inserted

This clause inserts a new Part 14, after section 100 of the *Kava Management Act 1998*, incorporating new sections 101 to 104 which provide for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 101 provides for relevant definitions for the Division including references to the Director-General and repealed Act.

New section 102 provides that for applications made to the Director-General for a decision, where a decision had not been made before the commencement of this Act, that the Director decides the application as if it had been made to the Director and not to the Director-General.

New section 103 provides that for applications made for reviews of delegate decisions, where a review has not been completed before the commencement of this Act that the review is to be completed by the Director as if the review had been made to the Director and not to the Director-General.

New Section 104 provides that any statutory instruments, appointments, approved forms etc made by the Director-General prior under the *Kava Management Act 1998* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director. A delegation also continues until amended or revoked.

Clause 35. Schedule 2 amended (Reviewable decisions)

This clause amends Schedule 2 in the *Kava Management Act 1998* which provides for reviewable decisions under that Act, to omit references to sections 78 and 81 and replacing the references with a reference to the new section 78 as inserted in clause 33 of this Act.

Clause 36. Act further amended

This clause refers to Schedule 3 of this Act which further amends the *Kava Management Act 1998* to omit references to 'Director-General' and replaces the references with references to 'Director'.

Part 6 Amendment of *Private Security Act 1995*

Clause 37. Act amended

This clause is a standard formal clause providing that Part 6 of this Act amends the *Private Security Act 1995*.

Clause 38. Section 3 amended (Definitions)

This clause consists of five subclauses which amend various definitions in Section 3 of the *Private Security Act 1995*.

Subclause 1 omits the definition of 'Director-General'.

Subclause 2 inserts a definition of 'delegate decision' and 'reviewable decision' in new section 53E (as inserted in clause 42 of this Act) and a definition for the new position of 'Director' as Director of Private Security Regulation appointed under section 10 (as inserted in clause 40 of this Act).

Subclause 3 amends the definition of 'decision notice' to omit a decision notice under the repealed *Licensing (Director-General) Act 2014*.

Subclause 4 amends the definition of 'affected person' for a reviewable decision with amendment of the section providing that an affected person is as defined in amended section 53E (as inserted in clause 42 of this Act).

Subclause 5 inserts a note at the end of section 3 of the *Private Security Act 1995* referring to the application of the *Interpretation Act 1978*.

Clause 39. Section 8 amended (Act may be declared to apply to certain persons)

This clause amends section 8 of the *Private Security Act 1995* to omit references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 40. Part 1A inserted

This clause inserts a new Part 1A after section 9 of the *Private Security Act 1995* to provide:

- in new section 10, for the appointment of a person to be the Director of Private Security Regulation. This position replaces the Director-General as the statutory office holder for decisions under the *Private Security Act 1995*;
- in new section 10A, for a power of delegation enabling the Director to delegate powers and functions other than a power to review of a delegate decision under Part 6B under the *Private Security Act 1995*; and
- in new section 10B, a requirement for the Director to an annual report on the operation of the Act to the Minister.

These provisions include the appointment of the a relevant statutory office holder to undertake the powers and functions that were held by the Director-General under the *Licensing (Director-General) Act 2014* in relation to the *Private Security Act 1995*.

CABINET-IN-CONFIDENCE

10

Clause 41. Section 11 amended

This clause amends section 11 of the *Private Security Act 1995* (including the heading in subclause 1) to omit references to 'Director-General' and replaces all the references with a reference to 'Director'.

Subclause 4 omits reference to the *Licensing (Director-General) Act 2014* in section 11(4)(b) of the *Private Security Act 1995* as that Act is repealed.

Clause 42. Sections 53E to 53G replaced

This clause replaces sections 53E to 53G relating to review of decisions made under the *Private Security Act 1995* with new sections 53E to 53GE.

The inserted sections set out the process for review of decisions made under the *Private Security Act 1995* and incorporates a process for review of a delegate decision as previously undertaken by the Director-General under the *Licensing (Director-General) Act 2014*, including that the rules of natural justice must be complied with.

A delegate who makes a decision must give notice of the decision (new section 53F) which includes that the affected person may apply for a review by the Director (under new section 53G). After making a decision (under new section 53GC) the Director must give notice of the decision (under new section 53GD) advising that the affected person may seek review by the NTCAT. The power for the NTCAT to review a decision made in respect of the *Private Security Act 1995* is retained.

Clause 43. Section 53H amended (Licence refused because of disqualifying offence)

This clause amends section 53H of the *Private Security Act 1995* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 44. Section 53J repealed (Delegate decisions)

This clause repeals section 53J of the *Private Security Act 1995* as provisions for delegate decisions are provided for in new section 10A (as inserted in clause 40 of this Act) and for review of delegate decisions in new sections 53E to 53GE (as inserted in clause 42 of this Act).

Clause 45. Section 59 amended (Protection of liability)

Section 59 provides for protection from liability persons exercising powers and functions under the *Private Security Act 1995*.

This clause inserts the Director as a person exercising powers and functions under the Act who is protected from liability when exercising powers and functions in good faith.

Clause 46. Section 61 amended (Approved forms)

Section 61 provides for the approval of forms under the *Private Security Act 1995*.

This clause repeals the reference to 'Director-General' and inserts reference to 'Director' for the purpose of section 61.

Clause 47. Part 9 inserted

This clause inserts a new Part 9 after section 80 of the *Private Security Act 1995* to incorporate new sections 81 to 85 providing for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 81 provides for relevant definitions for the Division including references to the Director-General and repealed Act.

New section 82 provides that for applications made to the Director-General for a decision, where a decision had not been made before the commencement of this Act, that the Director decides the application as if it had been made to the Director and not to the Director-General.

New section 83 provides that for applications made for reviews of delegate decisions, where a review has not been completed before the commencement of this Act, the review is to be completed by the Director as if the review had been made to the Director and not to the Director-General.

New Section 84 provides that any statutory instruments, appointments, approved forms etc made by the Director-General prior under the *Private Security Act 1995* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director. A delegation also continues until amended or revoked.

New section 85 provides that if the Director-General gives a show cause notice under section 27 of the *Private Security Act 1995* before this Act commences, that the Director may take action or make a decision to suspend, cancel or refuse to renew as if the Director had given the notice.

Clause 48. Schedule amended (Reviewable decisions and affected persons)

This clause amends the Schedule in the *Private Security Act 1995* providing for reviewable decisions under the Act, by omitting references to sections 53E, 53F(1) and 53J and replaces with a reference to new 53E as inserted in clause 42 of this Act.

Clause 49. Act further amended

This clause refers to Schedule 4 of this Act which further amends the *Private Security Act 1995* to omit references to 'Director-General' and replaces each reference with a reference to 'Director'.

CABINET-IN-CONFIDENCE

12

Part 7 **Amendment of Tobacco Control Act 2002**

Clause 50. **Act amended**

This clause is a standard formal clause providing that Part 7 of this Act amends the *Tobacco Control Act 2002*.

Clause 51. **Section 5 amended (Definitions)**

This clause consists of three subclauses which amend various definitions in Section 5 of the *Tobacco Control Act 2002*.

Subclause 1 omits the definition of 'Director-General'.

Subclause 2 inserts a definition for 'approved form' as approved under section 54C (inserted in clause 55 of this Act), definitions for 'delegate decision' and 'reviewable decision' as provided in section 41C (inserted in clause 52 of this Act) and a definition for a new position of Director to replace the Director-General as Director of Tobacco Control appointed under section 54A (as inserted in clause 55 of this Act).

Subclause 3 amends the definition of 'affected person' for a reviewable decision with amendment of the section providing that an affected person is as defined in section 41 (as inserted in clause 52 of this Act).

Clause 52. **Sections 41 to 41C replaced**

This clause replaces sections 41 to 41C relating to review of decisions made under the *Tobacco Control Act 2002* with new sections 41 to 41G.

The inserted sections set out the process for review of decisions made under the *Tobacco Control Act 2002* and incorporate the process for review of a delegate decision as previously undertaken by the Director-General under the *Licensing (Director-General) Act 2014*, including that the rules of natural justice must be complied with.

A delegate who makes a decision must give notice of the decision (new section 41A) which includes that the affected person may apply for a review by the Director (under new section 41B). After making a decision (under new section 41E) the Director must give notice of the decision (under new section 41F) advising that the affected person may seek review by the NTCAT. The power for the NTCAT to review a decision made in respect of the *Tobacco Control Act 2002* is retained.

Clause 53. **Section 53 amended (Wholesalers to provide information about retailers)**

This clause amends section 53 of the *Tobacco Control Act 2002* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 54. **Section 54 amended (Misleading information)**

This clause amends section 54 of the *Tobacco Control Act 2002* to omit the reference to 'Director-General' as the relevant officer and replaces the reference with a reference to 'Director'.

CABINET-IN-CONFIDENCE

13

Clause 55. Section 54A to 54C inserted

This clause inserts a new sections 54A to 54C after section 54 of the *Tobacco Control Act 2002* to provide:

- in new section 54A, for the appointment of a person to be the Director of Tobacco Control. This position replaces the Director-General as the statutory office holder for decisions under the *Tobacco Control Act 2002*;
- in new section 54B, that an annual report on the Director's powers and functions under the Act is to be provided by the Director to the Minister; and
- in new section 54C, a provision enabling the Director to approve forms for the Act.

Clause 56. Section 55 amended

This clause amends section 55 of the *Tobacco Control Act 2002* (including the heading in subclause 1 of the clause) to omit references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 57. Section 56 amended (Legal immunity)

Section 56 of the *Tobacco Control Act 2002* relates to legal immunity for the exercise of powers and functions in good faith under that Act.

This clause omits reference to the 'Director-General' and replaces with a reference to the 'Director'.

Clause 58. Part 11 inserted

This clause inserts a new Part 11 after section 68 of the *Tobacco Control Act 2002* to incorporate new sections 69 to 72 providing for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 69 provides for relevant definitions for the Division including references to the Director-General and repealed Act.

New section 70 provides that for applications made to the Director-General for a decision, where a decision had not been made before the commencement of this Act, that the Director decides the application as if it had been made to the Director and not the Director-General.

New section 71 provides that for applications made for reviews of delegate decisions, where a review has not been completed before the commencement of this Act, the review is to be completed by the Director as if the review had been made to the Director and not to the Director-General.

New Section 72 provides that any statutory instruments, appointments, approved forms etc made by the Director-General prior under the *Tobacco Control Act 2002* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director. A delegation also continues until amended or revoked.

Clause 59. Schedule amended (Reviewable decisions)

This clause amends the Schedule in the *Tobacco Control Act 2002* providing for reviewable decisions under the Act to omit references to sections 41, 41C and 81 and replaces with a reference to new section as inserted in clause 52 of this Act.

CABINET-IN-CONFIDENCE

14

Clause 60. Act further amended

This clause refers to Schedule 5 of this Act which further amends the *Tobacco Control Act 2002* to omit references to 'Director-General' and replaces each reference with a reference to 'Director'.

Part 8 Amendment of *Totalisator Licensing and Regulation Act 2000*

Clause 61. Act amended

This clause is a standard formal clause providing that Part 8 of this Act amends the *Totalisator Licensing and Regulation Act 2000*.

Clause 62. Section 3 amended (Interpretation)

This clause consists of five subclauses which amend various definitions in Section 3 of the *Totalisator Licensing and Regulation Act 2000*.

Subclause 1 omits the definition of 'Director-General'.

Subclause 2 inserts a definition for 'approved form' as provided in section 8B (inserted in clause 66 of this Act), definitions for 'delegate decision' and 'reviewable decision' as provided in section 82 (as inserted in clause 70 of this Act) and a definition for a new position of Director as Director of Totalisator Licensing and Regulation appointed under section 5 (as inserted in clause 63 of this Act).

Subclause 3 amends the definition of 'affected person' to omit the reference to section 83 of the *Totalisator Licensing and Regulation Act 2000* which is repealed and replaced with a new section 82 in clause 70 of this Act.

Subclause 4 amends the definition of 'decision notice' to omit a decision notice provided under the repealed *Licensing (Director-General) Act 2014*.

Subclause 5 inserts a note for section 3 of the *Totalisator Licensing and Regulation Act 2000* referring to the application of the *Interpretation Act 1978*.

Clause 63. Section 5 inserted

This clause inserts before section 6 in Part 2 of the *Totalisator Licensing and Regulation Act 2000*, a new section 5 providing for the appointment of the Director of Totalisator Licensing and Regulation.

Clause 64. Section 6 amended

This clause amends section 6 of the *Totalisator Licensing and Regulation Act 2000* (including the heading in subclause 1) to omit the references to 'Director-General' and replaces each references with a reference to 'Director'.

Clause 65. Section 7 amended

This clause amends section 7 of the *Totalisator Licensing and Regulation Act 2000* (including the heading in subclause 1 of the clause) to omit references to the 'Director-General' and replaces all references with a reference to the 'Director'.

Clause 66. Section 8 replaced

This clause replaces section 8 and inserts new sections 8A and 8B of the *Totalisator Licensing and Regulation Act 2000* to provide:

- in new section 8, a power for the Director to delegate powers and functions as specified other than the power to review a decision of a delegate in Part 8, Division 2, the power to grant a licence or the power to make Rules;
- in new section 8A, a requirement for the provision of an annual report on the Director's powers and functions under the Act by the Director to the Minister; and
- in new section 8B, a provision enabling the Director to approve forms for the Act.

Clause 67. Section 10 amended (Disclosure of interest)

This clause amends section 10 of the *Totalisator Licensing and Regulation Act 2000* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 68. Section 12 amended (Determination of events, sports and activities)

This clause amends section 12 of the *Totalisator Licensing and Regulation Act 2000* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 69. Section 75 amended

This clause amends section 75 of the *Totalisator Licensing and Regulation Act 2000* to omit all references to 'Director-General' (including in the heading of the section as provided in subclause 1) and replaces each reference with a reference to 'Director'.

Subclause 3 amends section 75(3)(b) of the Act to omit reference to Part 3 of the *Licensing (Director-General) Act 2014* which provides for review of delegate decisions by the Director-General and replaces with a reference to new Part 8, Division 2 of the *Totalisator Licensing and Regulation Act 2000* which incorporates the review of delegate decisions.

Clause 70. Part 8 replaced

This clause repeals Part 8 and inserts a new Part 8 into the *Totalisator Licensing and Regulation Act 2000* providing for review of decisions made under the Act, replacing sections 82 to 89 of that Act

The inserted sections set out the process for review of decisions made under the *Totalisator Licensing and Regulation Act 2000* and incorporate the process for review of a delegate decision as previously undertaken by the Director-General under the *Licensing (Director-General) Act 2014*, including that the rules of natural justice must be complied with.

A delegate who makes a decision must give notice of the decision (new section 83) which includes that the affected person may apply for a review by the Director (under new section 84). After making a decision (under new section 87) the Director must give notice of the decision (under new section 88) advising that the affected person may seek review by the NTCAT. The power for the NTCAT to review a decision made in respect of the *Totalisator Licensing and Regulation Act 2000* is retained.

CABINET-IN-CONFIDENCE

16

Clause 71. Section 124 amended (Limitation of legal liability)

Section 124 of the *Totalisator Licensing and Regulation Act 2000* provides a limitation on legal liability for the exercise of powers and functions under the Act done in good faith.

This clause includes the exercise of powers or functions by the Director as a person covered by the limitation.

Clause 72. Section 126 amended (Duplicate licence)

This clause amends section 126 of the *Totalisator Licensing and Regulation Act 2000* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 73. Section 127 amended (Regulations)

This clause amends section 127 of the *Totalisator Licensing and Regulation Act 2000* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

Clause 74. Part 14 inserted

This clause inserts a new Part 14 after section 142 of the *Totalisator Licensing and Regulation Act 2000* to incorporate new sections 143 to 147 providing for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 143 provides for relevant definitions for the Division including references to the Director-General and repealed Act.

New section 144 provides that for applications made to the Director-General for a decision, where a decision had not been made before the commencement of this Act, that the Director decides the application as if it had been made to the Director and not the Director-General.

New section 145 provides that for applications made for reviews of delegate decisions, where a review has not been completed before the commencement of this Act, the review is to be completed by the Director as if the review had been made to the Director and not the Director-General.

New section 146 provides that any statutory instruments, appointments, approved forms etc made by the Director-General prior under the *Totalisator Licensing and Regulation Act 2000* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director. A delegation also continues until amended or revoked.

New section 147 provides that any complaint received by the Director-General under section 69 of the *Totalisator Licensing and Regulation Act 2000* that has not been considered and decided under section 70 before this Act commences must be considered and decided by the Director as if the complaint had been made to the Director.

Clause 75. Act further amended

This clause refers to Schedule 6 of this Act which further amends the *Totalisator Licensing and Regulation Act 2000* to omit a references to 'Director-General' and replace each reference with a reference to 'Director'.

CABINET-IN-CONFIDENCE

17

Part 9 **Amendment of other Acts**

Division 1 **Amendment of *Associations Act 2003***

Clause 76. **Act amended**

This clause is a standard formal clause providing that Part 9, Division 1 of this Act amends the *Associations Act 2003*.

Clause 77. **Section 6 amended (Secrecy)**

This clause amends section 6(3)(c)(vi) of the *Associations Act 2003* relating to secrecy provisions to remove the reference to 'Director-General' and replaces with a reference to 'Liquor Commission' under the *Liquor Commission Act 2018* enabling information to be provided to the Liquor Commission irrespective of any secrecy requirements that may otherwise apply. A general provision enabling relevant information to be provided as may be required pursuant to legislation otherwise applies through sect 6(3)(e) of the *Associations Act 2003*.

Division 2 **Amendment of *Co-operatives (National Uniform Legislation) Act 2015***

Clause 78. **Act amended**

This clause is a standard formal clause providing that Part 9, Division 2 of this Act amends the *Co-operatives (National Uniform Legislation) Act 2015*.

Clause 79. **Section 8 amended (Meaning of generic terms)**

The clause amends the definition of 'Registrar' in section 8 of the *Co-operatives (National Uniform Legislation) Act 2015* to refer to the 'Commissioner' as appointed under the *Consumer Affairs and Fair Trading Act 1990*, providing that the Commissioner of Consumer Affairs is the relevant representative in the application of the National Uniform Law relating to co-operatives.

Division 3 **Amendment of *Racing and Betting Act 1983***

Clause 80. **Act amended**

This clause is a standard formal clause providing Part 9, Division 3 of this Act amends the *Racing and Betting Act 1983*.

Clause 81. **Section 89A amended (Licensing under this Part of person holding licence under *Totalisator Licensing and Regulation Act 2000*)**

This clause amends section 89A of the *Racing and Betting Act 1983* relating to licensing of a person who holds a licence under the *Totalisator Licensing and Regulation Act 2000* to omit all references to 'Director-General' and replaces each reference with a reference to 'Director'.

This clause also omits the reference to Director-General in section 89A(9) of the *Racing and Betting Act 1983* and replaces definition of Director defined as the Director of Totalisator Licensing and Regulation appointed under section 5 of the *Totalisator Licensing and Regulation Act 2000* (as inserted in clause 63 of this Act) as the relevant statutory decision maker.

CABINET-IN-CONFIDENCE

18

Clause 82. Part X, Division 4 inserted

This clause inserts after section 168 of the *Racing and Betting Act 1983*, a new Part X, Division 4 incorporating new sections 169 to 171 into that Act to provide for transitional matters arising from the repeal of the *Licensing (Director-General) Act 2014*.

New section 169 provides for relevant definitions for the Division including references to the Director-General and repealed Act.

New section 170 provides that for applications made to the Director-General for a decision, where a decision had not been made under section 89A before the commencement of this Act, that the Director decides the application as if it had been made to the Director and not the Director-General.

New section 171 provides that any statutory instruments, appointments, approved forms etc made by the Director-General prior under the *Totalisator Licensing and Regulation Act 2000* or the repealed *Licensing (Director-General) Act 2014* continue and are taken to have been made by the Director.

Part 10 Amendment of subordinate legislation

Part 10 of this Act provides for the amendment of subordinate legislation.

Division 1 Amendment of *Gaming Control (Gaming Machines) Regulations 1995*

Clause 83. Regulations amended

This clause is a standard formal clause providing that Part 10, Division 1 of this Act amends the *Gaming Control (Gaming Machines) Regulations 1995*.

Clause 84. Regulation 7 repealed (Gaming machine turnover levy)

This clause repeals Regulation 7 of the *Gaming Control (Gaming Machines) Regulations 1995*.

Regulation 7 sets out a gaming machine turnover levy relevant to the *Liquor Act 1978*. The *Liquor Act 1978* was repealed and replaced with the *Liquor Act 2019* which commenced on 1 October 2019 and additionally the relevant sections of the repealed *Liquor Act 1978* referred to in Regulation 7 were repealed in 2004. The Regulation has no effect and is redundant.

Division 2 Amendment of *Gaming Control (Reviewable Decisions) Regulations 2014*

Clause 85. Regulations amended

This clause is a standard formal clause providing that Part 10, Division 2 of this Act amends the *Gaming Control (Reviewable Decisions) Regulations 2014*.

Clause 86. Regulations 3 and 4 replaced

This clause repeals Regulations 3 and 4 of the *Gaming Control (Reviewable Decisions) Regulations 2014* and replaces with a new Regulation 3 providing that a decision specified in the Schedule to the Regulations is a reviewable decision for section 68CA of the *Gaming Control Act 1993*.

CABINET-IN-CONFIDENCE

19

Division 3 **Other subordinate legislation amended**

Clause 87. **Other subordinate legislation amended**

This clause refers to Schedule 7 of this Act which further amends subordinate legislation to omit references to 'Director-General' and replaces each reference with a reference to the 'Director'.

Part 11 **Repeal of Act**

Clause 88. **Repeal of Act**

This is a standard formal clause providing that this Act is repealed on the day after it commences.

Schedule 1 ***Gaming Control Act 1993* further amended**

Schedule 1 sets out all the provisions of the *Gaming Control Act 1993* requiring amendment to omit references to 'Director-General' and replaces each reference with a reference to 'Director', as provided for in clause 14 of this Act.

Schedule 1 also amends section 77(1) to remove a redundant reference to 'Chairperson'.

Schedule 2 ***Gaming Machine Act 1995* further amended**

Schedule 2 sets out all the provisions of the *Gaming Machine Act 1995* requiring amendment to omit references to 'Director-General' and replaces each references with a reference to 'Director', as provided for in clause 26 of this Act.

Schedule 3 ***Kava Management Act 1998* further amended**

Schedule 3 sets out all the provisions of the *Kava Management Act 1998* requiring amendment to omit references to 'Director-General' and replaces each reference with a reference to 'Director', as provided for in clause 36 of this Act.

Schedule 4 ***Private Security Act 1995* further amended**

Schedule 4 sets out all the provisions of the *Private Security Act 1995* requiring amendment to omit references to 'Director-General' and replaces each reference with a reference to the 'Director', as provided for in clause 49 of this Act.

Schedule 5 ***Tobacco Control Act 2002* further amended**

Schedule 5 sets out all the provisions of the *Tobacco Control Act 2002* requiring amendment to omit references to 'Director-General' and replaces all references with a reference to 'Director', as provided for in clause 60 of this Act.

Schedule 6 ***Totalisator Licensing and Regulation Act 2000* further amended**

Schedule 6 sets out all the provisions of the *Totalisator Regulation and Licensing Act 2000* requiring amendment to omit references to 'Director-General' and replaces all references with a reference to 'Director', as provided for in clause 75 of this Act.

CABINET-IN-CONFIDENCE

20

Schedule 7 Subordinate legislation amended

Schedule 7 sets out all the provisions of the subordinate legislation listed below requiring amendment to omit references to 'Director-General' and replaces all references with a reference to 'Director', as provided for in clause 89 of this Act.

- *Criminal Records (Spent Convictions) Regulations 1993;*
- *Gaming Control (Community Gaming) Regulations 2006;*
- *Gaming Control (Gaming Machines) Regulations 1995;*
- *Gaming Control (Internet Gaming) Regulations 1995;*
- *Gaming Control (Licensing) Regulations 1995;*
- *Gaming Machine Regulations 1995;*
- *Gaming Machine Rules 2001;*
- *Kava Management Regulations 1998;*
- *Private Security (Crowd Controllers) Regulations 1996;*
- *Private Security (Miscellaneous Matters) Regulations 2006;*
- *Private Security (Security Firms) Regulations 1998;*
- *Private Security (Security Officers) Regulations 1998;*
- *Tobacco Control Regulations 2002;*
- *Totalisator Licensing and Regulation Regulations 2000;*
- *Totalisator Licensing and Regulation (Arbitration) Regulations 2000; and*
- *Totalisator Licensing and Regulation (Wagering) Rules 2011.*