NORTHERN TERRITORY OF AUSTRALIA

NORTHERN TERRITORY LICENSING COMMISSION ACT

As in force at 16 September 2009

Table of provisions

Part 1 Preliminary

1 Short title 1
2 Commencement 1
3 Definitions 1

Part 2 Northern Territory Licensing Commission

Division 1 Establishment, functions and powers of Commission

4 Establishment of Commission 2
5 Powers and functions of Commission 2

Division 2 Membership of Commission

6 Membership of Commission 3
7 Chairperson administers affairs of Commission etc 3
8 Acting Chairperson 3
9 Deputy members 4
10 Term of office 5
11 Leave of absence 5
12 Resignation of member 5
13 Termination of appointment of member 5

Division 3 Proceedings of Commission

14 Convening of Commission 6
15 Constitution of Commission 6
16 Sittings of Commission 6
17 Quorum 6
18 Procedure of Commission 6
19 Disclosure of interest 7

Division 4 Miscellaneous

20 Delegation 7
21 Annual report 8

Part 3 Director and deputy directors

22 Director of Licensing 8

23 Powers and functions of Director 8
24 Deputy Directors of Licensing 9

Part 4 Review

25 Application 9
26 Interpretation 9
27 Commission may review decisions 9
28 Application for review 9
29 Conduct and determination of review 10
30 Waiver or refund of fee, variation of times for compliance etc. 10
31 Operation of decision until determination of review 10

Part 5 Miscellaneous

32 Protection of members etc. 10
33 Regulations 11
34 Transitional: membership of Commission 11

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 16 September 2009. Any amendments that commence after that date are not included.

NORTHERN TERRITORY LICENSING COMMISSION ACT

An Act to establish the Northern Territory Licensing Commission and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Northern Territory Licensing Commission Act*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

another Act means:

(a) the *Gaming Control Act*, the *Gaming Machine Act*, the *Kava Management Act*, the *Liquor Act*, the *Private Security Act* or any other Act other than this Act under which powers are conferred or functions are imposed on the Commission; or

(b) an instrument of a legislative or administrative character made under an Act referred to in paragraph (a).

Chairperson means the Chairperson of the Commission appointed under section 6 or the person appointed under section 8 to act as the Chairperson while acting as the Chairperson.

Commission means the Northern Territory Licensing Commission established by section 4.

Deputy Director means a Deputy Director of Licensing appointed under section 24.

Director means the Director of Licensing appointed under section 22(1) or the person appointed under section 22(2) to act as the Director.

employee has the same meaning as in section 3(1) of the *Public Sector Employment and Management Act*.

member means a member of the Commission appointed under section 6 (including the Chairperson).

Part 2 Northern Territory Licensing Commission

Division 1 Establishment, functions and powers of Commission

4 Establishment of Commission

(1) The Northern Territory Licensing Commission is established.

(2) The Commission:

(a) is a body corporate with perpetual succession;

(b) has a common seal; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real, leasehold and personal property and of suing and being sued.

(3) All courts, judges and persons acting judicially must take judicial notice of the common seal of the Commission affixed to a document and must presume that it was duly affixed.

5 Powers and functions of Commission

(1) The Commission must perform the functions imposed on it under this Act or another Act and do any other thing that is necessary or convenient to be done for the proper performance of those functions.

(2) The Commission has the power to do all things that are necessary or convenient to be done for or incidental to the performance of its functions.

Division 2 Membership of Commission

6 Membership of Commission

(1) The Minister must, by notice in the *Gazette*, appoint the members of the Commission.

(2) Subject to this section, the Minister must appoint the number of members that he or she considers appropriate for the proper conduct of the business of the Commission.

(3) In appointing the members, the Minister must appoint:

(a) a person to be the Chairperson of the Commission; and

(b) not less than 2 other persons to be members.

(4) At least one of the members must be a person who is a lawyer who has been admitted to the legal profession for at least 5 years.

(4A) A member must not hold office in a club or other body corporate that holds, or is an applicant for, a gaming machine licence under the *Gaming Machine Act*.

(5) The exercise of the powers or the performance of the functions of the Commission is not to be affected by reason only of there being a vacancy in the office of a member.

7 Chairperson administers affairs of Commission etc.

(1) The Chairperson:

(a) administers the affairs of the Commission; and

(b) must perform the functions imposed on him or her under this Act or another Act.

(2) The Chairperson has power do all things that are necessary or convenient to be done for or incidental to the proper administration of the affairs of the Commission and the proper performance of his or her functions.

8 Acting Chairperson

(1) The Minister may, by notice in the *Gazette*, appoint a person to act as the Chairperson during:

(a) a vacancy in that office; or

(b) a period or all periods when the Chairperson is or is expected to be absent from duty or the Territory, is unable to exercise his or her powers or perform his or her functions or is performing other duties.

(2) The Minister may terminate an appointment made under subsection (1).

(3) A person appointed to act as the Chairperson has all the powers and functions conferred or imposed on the Chairperson under this Act or another Act.

(4) The validity of a decision of the Commission or the Chairperson is not to be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under subsection (1) had not arisen or that an appointment under that subsection had ceased to have effect.

9 Deputy members

(1) The Minister may appoint a person to be the deputy of a member referred to in section 6(3)(b).

(2) A person appointed to be the deputy of the member referred to in section 6(4) must be a lawyer who has been admitted to the legal profession for at least 5 years.

(3) The appointment of a deputy of a member has effect while the member holds office but the person may be re-appointed as the deputy of the member (if he or she is re-appointed) or another member.

(4) If a member is absent from a meeting or other proceeding of the Commission, the deputy of the member acts in place of the member.

(5) When a deputy of a member attends a meeting or other proceeding in place of the member, he or she is to be taken to be a member for the purposes of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* and for the purposes of the exercise of the powers and the performance of the functions of the Commission under this Act or another Act.

(6) A reference in this Act or another Act to a member includes a reference to the deputy of the member while acting in place of the member.

(7) The validity of a decision of the Commission or an act done by a person as the deputy of a member is not to be questioned in any proceedings on a ground arising from the fact that the occasion for the deputy to act in place of the member had not arisen or had ceased.

10 Term of office

(1) Subject to this Division, a member holds office for the period not exceeding 3 years specified in the instrument of appointment but is eligible for re-appointment.

(2) Notwithstanding subsection (1), unless a member sooner vacates his or her office or is removed from office under section 13, on the expiration of the term of office of the member the member continues to hold office until a successor is appointed.

11 Leave of absence

The Minister may grant a member leave of absence.

12 Resignation of member

A member may resign from office by written notice delivered to the Minister.

13 Termination of appointment of member

(1) The Minister may terminate the appointment of a member on the grounds of inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) If a member:

(a) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Commission; or

(b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit,

the Minister must terminate the appointment of the member.

Division 3 Proceedings of Commission

14 Convening of Commission

(1) The Commission must convene as often as is necessary for the exercise of its powers and the performance of its functions under this Act or another Act.

(2) The Chairperson must make the arrangements that enable the Commission to convene.

15 Constitution of Commission

(1) Subject to another Act, the Commission is constituted by a presiding member and at least 2 other members.

(2) The Chairperson must, in respect of each matter or class of matter to be dealt with by the Commission:

(a) select the members to constitute the Commission; and

(b) select one of those members to preside when the Commission convenes.

(3) In selecting the members to constitute the Commission, the Chairperson must comply with any eligibility requirements specified under another Act that relates to the matter or class of matters the Commission will be dealing with.

16 Sittings of Commission

The Commission constituted by 3 or more members may convene to deal with a matter at the same time as the Commission constituted by 3 or more other members is convening to deal with another matter.

17 Quorum

Subject to another Act, when the Commission convenes 3 members constitute a quorum.

18 Procedure of Commission

(1) Questions before the Commission are determined by a majority of the members present and determining the questions but, in the event of an equal number of members deciding for and against a question, the presiding member may determine that question.

(2) The Commission must keep records of its proceedings.

(3) Subject to this Act or another Act, the procedures of the Commission are as the Commission determines.

19 Disclosure of interest

(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission must, as soon as possible after the relevant facts come to the attention of the member, disclose the nature of the interest at a meeting of the Commission.

(2) Subsection (1) does not apply if the pecuniary interest of the member is as a member of and in common with the other members of an incorporated company consisting of not less than 25 persons and of which he or she is not a director or an employee.

(3) A disclosure under subsection (1) is to be recorded in the minutes of the Commission.

(4) The member who makes the disclosure:

(a) must not take part in any deliberation or decision of the Commission in relation to the matter that occurs after he or she makes the disclosure; and

(b) must be disregarded for the purpose of constituting a quorum of the Commission while the matter is deliberated and the Commission's decision about the matter made.

Division 4 Miscellaneous

20 Delegation

(1) Subject to another Act, the Commission may, in writing, delegate to the Chairperson, another member, the Director, a Deputy Director or an employee all or any of its powers and functions under this Act or another Act other than:

(a) a power to conduct a hearing; or

(b) this power of delegation.

(2) A delegation of a power or function under subsection (1) to the Chairperson or the Director is to be construed as a delegation to the person from time to time holding or acting in that office.

(3) A delegation of a power or function under subsection (1) to a Deputy Director by reference to the office of Deputy Director is to be construed as a delegation to a person from time to time holding an office of Deputy Director.

(4) A power or function delegated under this section is, when exercised or performed by the delegate, to be taken to have been exercised or performed by the Commission.

(5) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Commission.

21 Annual report

(1) The Commission must at the end of each financial year report to the Minister on its operations during that year under each Act that confers powers or imposes functions on it.

(1A) The report is to include statistical and other information that demonstrates the extent to which the objectives of the *Gaming Machine Act* have been met during the financial year.

(2) The Commission must forward the report to the Minister within 3 months after the end of the financial year.

(3) The Minister must lay the report before the Legislative Assembly within 6 sitting days of the Legislative Assembly after the report is received by the Minister.

Part 3 Director and deputy directors

22 Director of Licensing

(1) The Minister may appoint an employee to be the Director of Licensing.

(2) The Minister may appoint an employee to act in the office of Director during:

(a) a vacancy in that office; or

(b) a period or all periods when the Director is or is expected to be absent from duty, is unable to exercise his or her powers or perform his or her functions or is performing other duties.

23 Powers and functions of Director

(1) The Director must perform the functions imposed on him or her under this Act or another Act and do any thing that is necessary or convenient to be done for the proper performance of those functions.

(2) The Director has the power to do all things that are necessary or convenient to be done for or incidental to the performance of his or her functions.

(3) In exercising his or her powers and performing his or her functions, the Director is subject to the directions of the Commission.

24 Deputy Directors of Licensing

(1) The Minister may appoint the employees he or she thinks necessary to be Deputy Directors of Licensing.

(2) A Deputy Director has the powers and functions of the Director.

(3) A Deputy Director exercises his or her powers and performs his or her functions subject to the directions of the Director and the Commission.

Part 4 Review

25 Application

This Part applies subject to the appearance of a contrary intention in another Act.

26 Interpretation

A reference in this Part to a decision is a reference to a decision made under this Act or another Act by the Commission, the Chairperson, the Director or a Deputy Director that is capable of being reviewed under this Part.

27 Commission may review decisions

If the Commission considers there are grounds for doing so, the Commission may, whether on its own motion or on an application under section 28, review a decision.

28 Application for review

(1) A person aggrieved by a decision may, not later than 28 days after receiving notice of the decision, apply to the Commission for a review of the decision.

(2) The application for review of a decision is to:

(a) be in writing in a form approved by the Chairperson;

(b) be accompanied by the fee prescribed by the Minister by notice in the *Gazette*; and

(c) set out the grounds on which the request for review is made and the facts relied on to establish the grounds.

29 Conduct and determination of review

(1) The Commission must conduct a review in a manner that is fair and expeditious and must give proper consideration to the issues.

(2) After determining the review, the Commission must, by notice in writing to the person affected by the decision or who requested the review, as the case may be:

(a) affirm the decision reviewed;

(b) revoke or vary the decision reviewed; or

(c) substitute a decision for that decision.

(3) The Commission must specify its reasons for its decision in the notice.

30 Waiver or refund of fee, variation of times for compliance etc.

If the Commission considers that it is fair to do so because of the circumstances of a particular review, the Commission may:

(a) extend the time under section 28(1) for making an application for the review of a decision;

(b) waive in whole or in part the payment of the prescribed fee referred to in section 28(2)(b); or

(c) having determined the review – refund in whole or in part the prescribed fee referred to in section 28(2)(b).

31 Operation of decision until determination of review

A decision that is the subject of a review under this Part continues to have effect until the determination of the review.

Part 5 Miscellaneous

32 Protection of members etc.

(1) No civil or criminal proceeding lies against a person who is or has been a member, the Director, a Deputy Director or a delegate or agent of the Commission for or in relation to an act or thing done or omitted to be done in good faith in his or her capacity as member, Director, Deputy Director, delegate or agent in the exercise or purported exercise of a power or the performance or purported

performance of a function under this Act or another Act of the member, Director, Deputy Director, delegate or agent.

(2) A member is not personally liable for or in relation to a matter or thing done or omitted to be done or a contract entered into by:

(a) the Commission in good faith under or for the purposes of this Act or another Act; or

(b) the member in good faith under or for the purposes of this Act or another Act for and on behalf of the Commission.

33 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

34 Transitional: membership of Commission

(1) A person who immediately before the commencement of this Act was a member of the Gaming Control Commission, the Liquor Commission, the Northern Territory Gaming Machine Commission or the Private Security Licensing Authority is, on and from that commencement, a member of the Northern Territory Licensing Commission until the term of that person as member of the Gaming Control Commission, the Liquor Commission, the Northern Territory Gaming Machine Commission or the Private Security Licensing Authority, as the case requires, would have expired but for that commencement.

(2) The person who immediately before the commencement of this Act was the Chairman of the Liquor Commission is, on and from that commencement, the Chairperson of the Northern Territory Licensing Commission until the term of that person as Chairman of the Liquor Commission would have expired but for that commencement.

(3) Division 2 of Part 2 applies to and in relation to a member holding office under subsection (1) or (2) as if the member was appointed to office under section 6.

(4) Nothing in this section limits the power of the Minister to appoint other members under section 6.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Northern Territory Licensing Commission Act 1999 (Act No. 67, 1999)

Assent date	17 December 1999
Commenced	14 February 2000 (*Gaz* G5, 9 February 2000, p 6)

Northern Territory Licensing Commission Amendment Act 2001 (Act No. 6, 2001)

Assent date	22 June 2001
Commenced	29 June 2001 (s 2, s 2 *Gaming Machine Amendment Act (No. 2) 2001* (Act No. 5, 2001) and *Gaz* S34, 29 June 2001)

Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006 (Act No. 7, 2006)

Assent date	26 April 2006
Commenced	26 April 2006

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date	8 March 2007
Commenced	8 March 2007

Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 (*Gaz* G26, 27 June 2007, p 3); rem: 17 May 2007

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date	1 September 2009
Commenced	16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

3 LIST OF AMENDMENTS

s 6	amd No. 6, 2001, s 3; No. 7, 2007, s 16
s 9	amd No. 7, 2006, s 30; No. 7, 2007, s 16
s 19	amd No. 25, 2009, s 8
s 21	amd No. 6, 2001, s 4; No. 4, 2007, s 7