



# **Gaming Supervisory Authority**

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## **Third Annual Report 1997 - 1998**

Casino Act, 1983, section 24  
Gaming Machines Act, 1992, section 74

# **Gaming Supervisory Authority**

## **Third Annual Report of the Gaming Supervisory Authority on the operation of The Adelaide Casino and Gaming Machines in South Australia for the period 1 July, 1997 to 30 June, 1998**

### **1. Introduction**

This is the Third Annual Report of the Gaming Supervisory Authority which replaced the Casino Supervisory Authority on 1 July, 1995.

Section 24 of the Casino Act, 1983 requires the Authority each year to prepare and present to the Minister a report on the operation of the licensed casino during the preceding financial year. A report under this section must include -

- (a) copies of the audited accounts prepared and audited under the Casino Act in respect of the relevant financial year; and
- (b) a statement of the circumstances of any contravention of, or failure to comply with, the provisions of the Casino Act or the terms and conditions of the licence.

Section 74(1) of the Gaming Machines Act, 1992 requires the Authority each year to submit to the Minister a report on the performance of its functions under the Gaming Machines Act during the financial year ending on the previous 30 June.

The Authority considers it appropriate and convenient to report annually in a single document and, as it sees no impediment in the legislation for this to occur, proposes to discharge its statutory reporting responsibilities in one document.

### **2. Gaming Supervisory Authority**

#### **2.1 Functions and objectives**

The Gaming Supervisory Authority, which was established from 1 July, 1995, is responsible *inter alia* to ensure that an effective and efficient system of supervision is established and maintained over the operation of the licensed casino and over the operations of all licensees (of all classes) under the Gaming Machines Act.

The Liquor & Gaming Commissioner is responsible to the Authority to ensure that the operations of the licensed casino are subject to constant scrutiny (Casino Act, section 21) and is also responsible to the Authority for the constant scrutiny of the operations under all licences (of all classes) under the Gaming Machines Act (section 5).

## 2.2 Legislation

On 24 November, 1994 the then Deputy Premier/Treasurer introduced a Bill for an Act to establish the Gaming Supervisory Authority and to provide for its powers and functions.

On the same day the then Deputy Premier/Treasurer introduced a Bill for an Act to amend the Casino Act, 1983, the Gaming Machines Act, 1992 and the Liquor Licensing Act, 1985. This became the Statutes Amendment (Gaming Supervision) Act, 1995. This Bill was said to give effect to changes arising from the proposal to establish the Gaming Supervisory Authority and to amend the Liquor Licensing Act to allow the Licensing Court to consider appeals arising from the decisions or orders of the Liquor Licensing Commissioner under the Gaming Machines Act.

When introducing the Gaming Supervisory Authority Bill to Parliament on 24 November, 1994, the then Deputy Premier/Treasurer stated that the Bill sought to establish a Gaming Supervisory Authority to provide improved control with respect to the licensing, supply and monitoring of gaming machines. The provisions of this Bill were designed to provide the gaming Authority with an overarching supervisory responsibility for all aspects of the gaming machines industry and an overriding authority on any matters which are not the direct responsibility of the Liquor & Gaming Commissioner. These changes would be achieved by expanding the role of the Casino Supervisory Authority which already supervised gaming operations, including gaming machines, conducted at The Adelaide Casino. This expansion was a logical progression of that Authority's role and could be achieved with a minimum of effort. Thus, the new Authority would have similar powers in relation to gaming machine operations outside the Casino to those available to the Casino Supervisory Authority with respect to the Casino. The Liquor & Gaming Commissioner would become responsible to the Gaming Supervisory Authority for the scrutiny of the Casino and all gaming machine operations, and the Authority would have the overall responsibility for those matters, with the power to give directions to all licensees and to hold inquiries into any aspect of the Casino or the gaming machine industry. The Liquor Licensing Commissioner would still retain independence with respect to the exercise of statutory discretions under the Gaming Machines Act or the Casino Act.

The Parliamentary Opposition supported the thrust and intent of the legislation which it was considered would streamline the administration of gaming machines in South Australia.

On 16 March, 1995 the Gaming Supervisory Authority Bill passed all stages of the South Australian Parliament. The Statutes Amendment (Gaming Supervision) Bill passed all stages the previous day.

On 23 March, 1995 the then Governor of South Australia assented to an Act to establish the Gaming Supervisory Authority and to provide for its powers and functions. The **Gaming Supervisory Authority Act, 1995** came into operation on 1 July, 1995. Section 4 of the Act established the Gaming Supervisory Authority and section 5 provided for its constitution.

Section 11 of the Gaming Supervisory Authority Act, 1995 provides as follows:

*11. (1) The functions of the Authority are-*

- (a) *in relation to the Casino Act-*
    - (i) *to determine the terms and conditions of the licence under which the casino operates; and*
    - (ii) *to ensure that an effective and efficient system of supervision is established and maintained over the operation of the licensed casino; and*
    - (ii) *to advise, and make recommendations to, the Minister on matters relating to the operation of the licensed casino or on any aspect of the operation, administration or enforcement of the Casino Act;*
  - (b) *in relation to the Gaming Machines Act*
    - (i) *to ensure that an effective and efficient system of supervision is established and maintained over the operations of all licensees (of all classes) under the Act; and*
    - (iii) *to advise, and make recommendations to, the Minister on matters relating to the operations of those licensees or on any aspect of the operation, administration or enforcement of that Act;*
  - (c) *to exercise the other powers and functions conferred on, or assigned to, the Authority by or under this Act or any other Act, or by the Minister.*
- (2) *The Authority has power to do anything that is necessary for, or incidental to, the exercise of its functions.*
  - (3) *The Authority may require the Commissioner to furnish the Authority with a report on any matter relating to-*
    - (a) *the operation of the licensed casino; or*
    - (b) *the operations of any licensee under the Gaming Machines Act; or*
    - (c) *the discharge by the Commissioner of his or her responsibility to the Authority under the Casino Act or the Gaming Machines Act.*
  - (4) *The Authority may give the Commissioner directions in relation to the discharge by the Commissioner of his or her responsibility to the Authority under the Casino Act or the Gaming Machines Act, but is not empowered to direct or in any way influence the Commissioner in the exercise by the Commissioner of a discretion under either of those Acts.*

Section 13 of the Gaming Supervisory Authority Act provides for inquiries by the Authority as follows:

**13. (1) The Authority-**

- (a) *may hold an inquiry whenever it considers it necessary or desirable*

*to do so for the purpose of carrying out its functions; and*

- (b) must, if requested to do so by the Minister, hold an inquiry into any matter relating to-*
  - (i) the operation, administration or enforcement of the Casino Act or the Gaming Machines Act; or*
  - (ii) the operation of the licensed casino; or*
  - (iii) the operation of any licensee under the Gaming Machines Act.*
- (2) On completing an inquiry under this section, the Authority must submit to the Minister a report of the inquiry and the findings of the Authority on the inquiry, and any such report may include recommendations for action to be taken.*
- (3) Unless the Authority recommends that the report should remain confidential, the Minister must, within six sitting days of receiving a report under subsection (2), cause a copy of the report to be laid before each House of Parliament.*

Section 14 of the Gaming Supervisory Authority Act provides the Authority with certain powers and procedures when it holds an inquiry and when it hears appeals. Section 15 makes provision for persons to be represented in any proceedings before the Gaming Supervisory Authority.

In 1997 the Gaming Supervisory Authority Act was amended by the Gaming Supervisory Authority (Administrative Restructuring) Amendment Act. The Act was proclaimed and came into effect on 24 July, 1997 with the exception of sections 3 and 5, which were proclaimed and came into effect on 11 September, 1997.

The amendment to section 3 reflected the Liquor Licensing Commissioner's change of designation to the Liquor and Gaming Commissioner in line with contemporaneous amendments to the Liquor Licensing Act.

The amendment to section 5 enabled the appointment of a deputy presiding member to the Authority who was already a member of the Authority.

Under new section 16 it is an offence for any member or employee of the Authority to engage in a gambling activity to which the Authority's statutory responsibilities extend.

New section 17 imposed confidentiality obligations on members and employees of the Authority (including former members and employees) and exempted the Authority from the application of the *Freedom of Information Act, 1991*. In addition, new section 18 provided that the Ombudsman's jurisdiction does not extend to acts of the Authority.

Finally, the amendments increased the penalty provisions in the Act.

The Authority's role is also to be gleaned from certain provisions of the **Casino Act, 1983** and the **Gaming Machines Act, 1992**. The more important provisions include:

The **Casino Act** provides for the licensing of a casino (Part III). Pursuant to section 12(1) of the Act, the Authority shall, at the request of the Minister, hold a public inquiry for the purpose of determining -

- (a) the premises in respect of which a licence should be issued; and
- (b) the terms and conditions on which the licence should be issued.

Pursuant to section 13 of that Act,

- (1) At the conclusion of an inquiry under this Part, the Governor may grant a licence to the Commission.
- (2) The premises in respect of which the licence is to be granted shall be as determined by the Authority.
- (3) Subject to subsection (4), the terms and conditions of the licence shall be as recommended by the Authority.
- (4) The Governor may add to, or vary, the terms and conditions as recommended by the Authority where it is, in his opinion, necessary to do so in the public interest.

Section 14 of the **Casino Act** provides for variation of conditions of the licence as follows:

- (1) The Authority may, on the application of the Minister, the Commissioner, or on its own initiative, hold an inquiry into a proposal for the variation or revocation of a term or condition of the licence, or for an addition to the terms and conditions of the licence.
- (2) At the conclusion of the inquiry, the Authority must submit a recommendation to the Minister for adoption of the proposal with or without modification, or for rejection of the proposal.
- (4) The Commissioner and the Commission may appear personally or by counsel at an inquiry under this section and may call evidence and make representations to the Authority.
- (5) Where the Authority recommends adoption of the proposal (with or without modification), the Governor may, by notice published in the Gazette, alter the terms and conditions of the licence accordingly.

Part IV of the **Casino Act** provides for Operation of the Casino (Division 1 - General Provisions as to Operation and Division 2 - Supervision and Management).

Pursuant to section 21 of the Act, the Commissioner is responsible to the Authority to ensure that the operations of the licensed casino are subject to constant scrutiny.

Section 23 provides that -

- (1) The Authority may, by notice in writing served on the (Lotteries) Commission, give directions in relation to the management, supervision and control of any aspect of the operation of the licensed casino.
- (2) The (Lotteries) Commission shall ensure that all directions given under this section

are diligently carried out and observed.

Clause 2 of the terms and conditions of the Casino Licence provides that *the licensed casino shall be established and operated in accordance with the provisions of the Casino Act, 1983 (“the Act”), any regulations made under the Act, the terms and conditions of the casino licence, any directions given to the Lotteries Commission of South Australia (“the Commission”) by the Authority under section 23 of the Act, and the provisions of a management agreement to be entered into between the Commission and the person appointed by the Commission and approved by the Authority under section 16 of the Act to establish and operate the casino on behalf of the Commission (“the operator”).*

As at 30 June, 1998, the Casino Management Agreement was an agreement dated 9 August, 1985 between the Lotteries Commission of South Australia and Aitco Pty Ltd., ASER Nominees Pty Ltd., and ASER Investments Pty Ltd.

The **Gaming Machines Act** provides as follows:

- 11. (1) The Authority may, by notice in writing to the holder of a licence, give directions in relation to the carrying out of the undertaking under the licence.*
- (2) A licensee must diligently observe and carry out a direction given under this section.*
- Penalty:*
- (a) in the case of an offence committed by the holder of the gaming machine monitor licence - Division 2 fine or Division 4 imprisonment;*
- (b) in any other case - Division 3 fine or Division 5 imprisonment.*
- (3) A direction given under this Act to a licensee by the Commissioner is subject to a direction given by the Authority.*

Sections 14 to 36 of the **Gaming Machines Act** provide for licensees of various classes for gaming machines in hotels and clubs, for their being granted, their transfer, and their suspension, revocation and surrender, and disciplinary action against licensees by the Liquor & Gaming Commissioner.

Sections 37 to 44 of the **Gaming Machines Act** provide for approvals in respect of gaming machines in hotels and clubs.

Section 69 of the **Gaming Machines Act** provides a right of appeal as follows:

*Right of appeal*

- 69. (1) A person who is the subject of an order or decision (but not a direction) made or given by the Commissioner under this Act may appeal to the Court against that order or decision.*
- (2) A person who is the subject of a direction given by the Commissioner under this Act (except when acting as an authorised officer) may appeal to the Authority against that direction.*
- (3) An appeal under this section must be instituted within one month of the*

*decision, or order or direction being made or given or such longer period as the Court or the Authority, as the case may be, may allow.*

- (4) *An appeal under this section is in the nature of a rehearing.*
- (5) *The Court or Authority may, on an appeal under this section, do such of the following as the Court or Authority thinks appropriate:*
  - (a) *affirm, vary or quash the decision, order or direction subject to the appeal;*
  - (b) *substitute, or make in addition, any decision, order or direction that the Commissioner could make;*
  - (c) *remit the matter to the Commissioner for further consideration;*
  - (d) *make any incidental or ancillary order.*
- (6) *For the purposes of this section, the transferor of a gaming machine licence is a party to any proceedings relating to the transfer of the licence.*
- (7) *No right of appeal lies against a decision or order of the Court or Authority on an appeal under this section.*

## **2.3 Organisation of the Authority**

On 29 June, 1995 the first five members were appointed to the Gaming Supervisory Authority, pursuant to the Gaming Supervisory Act, 1995. Appointments were from 1 July, 1995 for periods of three years. Other members have been appointed since 29 June, 1995. Each appointment has been for three years. Members are eligible for re-appointment.

The presiding member must be a legal practitioner of at least 10 years' standing or a person who has held judicial office as a member of a superior court of South Australia or of any other State or Territory of the Commonwealth or of the Commonwealth. The four other members of the Authority must together have, in the Minister's opinion, the abilities and experience required for the effective performance of the Authority's functions. No person who has a direct or indirect pecuniary or personal interest in the undertaking under the casino licence or a licence under the Gaming Machines Act is eligible for appointment to the Authority.

Following the amendment to the Gaming Supervisory Act referred to above, David Green was appointed the deputy presiding member of the Authority from 24 July 1997.

On the same date, a fifth member of the Authority, Juliet Brown, was appointed to replace Ann Robinson, who had resigned to take up an appointment as Senior Judge of the South Australian Youth Court.

Membership of the Authority as at 30 June, 1998 was as follows:

**Geoffrey Louis Muecke, LLB (Presiding Member)** : appointed 7 September, 1995.

**David John Green, BComm, LLB(Hons), LLM, MBA(Hons), FTIA, FAICD, AIMM, MNIA** : appointed member from 1 July, 1995, and Deputy Presiding Member from 24 July, 1997, and re-appointed in both capacities from 30 June, 1998.

**Anthony Maxwell Pederick, FCPA, FCIS, FCIM, JP** : appointed from 1 July, 1995, and re-appointed from 1 July, 1998.

**Melinda Jane Jeffreys, AssocDipBus, FAHRI, AFAIM** : appointed 7 December, 1995.

**Juliet Helena Brown, LLB, MAICD** appointed 24 July, 1997.

## 2.4 Staffing and administration

As stated above the Authority has a presiding member and four other members, all of whom are part-time. During the latter part of 1997, the administration of the Authority comprised a Secretary, a part-time Secretary to the presiding member (who also acted as office assistant), and another part-time general administrative officer.

At the end of calendar year 1997, the Secretary, Mr Joe Bickart, retired from the Authority after many years of faithful service and the Authority takes this opportunity to acknowledge his valued contribution and assistance. Mr. Bickart served as Secretary to the Casino Supervisory Authority from 5 May, 1986 prior to becoming Secretary of the Gaming Supervisory Authority from its establishment on 1 July, 1995. Pending the appointment of full-time replacement for Mr. Bickart, the Legal Officer to the Authority was appointed Acting Secretary and continued to act in that position throughout the remainder of the financial year. The position of Secretary has since been upgraded to that of Executive Officer/Secretary and it is expected that that position will be filled during the financial year 1998-1999.

To conduct its own affairs, and in order to evaluate the various oral and written reports it received in relation to the Casino and gaming machines in hotels and clubs, the Authority held regular meetings of members. These meetings numbered 46 during the period.

Set out below is a summary of the categories of meetings held by the Authority, and the number attended by each member. Several gaming conferences and other educational and development activities were also attended by members and staff of the Authority.

Member	Treasurer Attorney- General Auditor- General	GSA	Probity	L&GC	Adelaide Casino Personnel	Con- ferences	Misc.
Total Number of Meetings Held	5	44	32	10	9	2	
Mr G L Muecke (Presiding Member)	5	44	31	10	8	1	16
Mr D J Green (appointed Deputy Presiding Member – 24/7/97)	5	36	27	8	8	2	15

Mr A M Pederick	5	44	32	10	9	1	16
Ms M J Jeffreys	5	31	19	5	7	1	12
Ms J H Brown – appointed 24/7/97	3	35	19	7	7	-	13

In addition to the above, a number of other special meetings were held on particular issues with representatives of the gaming industry and were attended by various members and the Secretary/Acting Secretary.

## **2.5 Financial performance**

During 1997-1998 the Authority operated on a total budget of \$465,000. The Authority reports that actual expenditure was again under budget for the period.

## **2.6 Year 2000 compliance**

The Authority is participating in the whole of government project being co-ordinated by the Department of Treasury and Finance to ensure that all of its systems are Year 2000 compliant.

The Authority's recently upgraded information technology systems have been installed with this requirement as a condition, and non-IT applications are being addressed progressively.

## **2.7 Authority's relationship with other agencies**

For this year of operation the Authority performed its role, in the case of Adelaide Casino, by having regular meetings with the Casino Managing Director, Mr John Frearson, and by receiving regular reports and certificates of compliance from the current licensee, S.A. Lotteries Commission. Reports on Casino matters were provided on a regular basis by the Liquor & Gaming Commissioner, Mr Bill Pryor, by his attendance on a monthly basis at Gaming Supervisory Authority meetings. Members of the Authority also met with Mr. Pryor at various other times during the year.

Section 21 of the Casino Act, 1983 provides that the Liquor & Gaming Commissioner is responsible to the Authority to ensure that the operations of the licensed casino are subject to constant scrutiny. The Commissioner currently has a full-time Government Inspectorate located in the Casino licensed premises, and it is by this means that he provides ongoing scrutiny over the operations of the Casino.

Section 5 of the Gaming Machines Act, 1992 provides that the Liquor & Gaming Commissioner is responsible to the Authority for the constant scrutiny of the operations under all licences (of all classes) under the Act. Inspectors from the Commissioner's Office visit licensed premises on a regular basis to conduct compliance audits with a view to ensuring observance of both the letter and the spirit of the Act and any licence conditions imposed by the Commissioner.

In carrying out its role in relation to gaming machines in hotels and clubs the Authority has received regular reports from the following licence holders under the Gaming Machines Act and Government Agencies:

- Supply SA, the holder of the gaming machine supplier's licence and the gaming machine service licence (see sections 14(1)(c) and (e) and 26(1) of the Gaming Machines Act);
- Independent Gaming Corporation, the holder of the gaming machine monitor licence (see sections 14(1)(d) and 25(1) of the Gaming Machines Act);
- Bull HN Information Systems/Wang and AWA Gaming Systems which are the two approved agents of Supply SA as the holder of the gaming machine service licence (see section 26(3) of the Gaming Machines Act);
- Liquor & Gaming Commissioner;
- South Australia Police.

### **3. Statutory requirements under the Casino Act, 1983**

#### **3.1 Casino Act, 1997**

The Authority reported in its Second Annual Report that the Casino Act, 1997 was assented to on 19 June, 1997 and was, on 30 June, 1997, awaiting proclamation to come into operation. By Proclamation made on 11 September, 1997, that date was fixed to be the day on which the Casino Act, 1997 came into operation. The operation of Part 5 (Offences), Part 7 (Powers of Inspection, Etc.), and section 71 (power to enter and inspect) was suspended until a day to be fixed by subsequent proclamation. No subsequent proclamation has yet been made.

Clause 2 of the Schedule to the Casino Act, 1997 repealed the Casino Act, 1983. However, clause 3 of the Schedule provided that the Casino Act, 1983 continues to apply, to the exclusion of the Casino Act, 1997, to the licence in force under the Casino Act, 1983 and the operation of the casino under that licence until the date of transition. The date of transition is the day on which the licence first granted under the Casino Act, 1997 comes into force (clause 1 of the Schedule).

Accordingly, the Casino Act, 1983, notwithstanding its repeal, continues to apply to the operation of The Adelaide Casino.

### 3.2 Accounts and Audit

Section 20 of the Casino Act, 1983 requires the licence holder (the Lotteries Commission of South Australia) to *cause proper accounts to be kept of gross gambling revenue and net gambling revenue for each month in relation to the licensed casino*. The accounts must be kept and preserved in accordance with all written directions given to the Lotteries Commission by the Minister and they must be audited by the Auditor-General at least once in each year.

Section 20 defines “gross gambling revenue” as meaning, in relation to a month, *the gross amount received by the person who is operating the casino in respect of gambling during the month (includes amounts paid to him during the month for the purchase or use of gambling chips)*. “Net gambling revenue” is defined as meaning, in relation to a month, *the gross gambling revenue for the month less the value of prizes paid or awarded during the month*.

Copies of the audited accounts kept and audited pursuant to section 20 in respect of the period under review, and kept in accordance with written directions of the Treasurer given on 26 June, 1986, are attached as **Appendix A**.

### 3.3 Breaches of the Casino Act and Licence

A written report to the Authority from the Liquor and Gaming Commissioner dated 14 August, 1998 is attached as **Appendix B1** (see section 24(2)(b) of the Casino Act, 1983).

A written report to the Authority from the licensee, the Lotteries Commission, dated 1 September, 1998 is attached as **Appendix B2** (see section 24(2)(b) of the Casino Act, 1983).

### 3.4 Parties involved in the operation and ownership of The Adelaide Casino

The Casino Act, 1983 authorises the Lotteries Commission to appoint a suitable person who is approved of by the Authority to operate the casino on its behalf. At midnight on June 30, 1998 the operation of The Adelaide Casino was transferred from Aitco Pty. Ltd. to Clianthus Pty. Ltd. following investigations conducted by the Lotteries Commission of South Australia which are required by the Casino Licence. The Gaming Supervisory Authority approved the appointment of Clianthus Pty. Ltd. on 29 June, 1998.

A copy of the Authority’s approval is attached as **Appendix C**.

**Appendices D1 and D2** show a diagrammatic representation of the parties involved in the operation and ownership of the casino immediately pre and post 30 June, 1998 respectively, and **Appendix E** is a report to the Authority dated 14 August, 1998 from the Liquor and Gaming Commissioner.

Note: On 1 July, 1998 Clianthus Pty. Ltd. changed its name to Adelaide Casino Pty. Ltd.

### **3.5 General power of the Authority to issue directions**

Section 23 of the Casino Act, 1983 authorises the Authority, by notice in writing served on the Lotteries Commission, to *give directions in relation to the management, supervision and control of any aspect of the operation of the licensed casino.*

The Authority, by holding meetings and discussions with Government agencies and the Casino, resolved several matters throughout the report year. No formal directions were issued under section 23.

## **4. Other matters relating to The Adelaide Casino**

### **4.1 Casino licence probity investigation**

During the latter part of the financial year ended 30 June, 1997 the Government announced its intention to sell either as a whole or individually the components of the ASER development, namely The Adelaide Casino, the Hyatt Hotel and the Adelaide Convention Centre.

It was intended that the purchaser of the casino apply for the first grant of the Casino Licence under the Casino Act, 1997, Part 3 of which provides as follows:

#### **Part 3 APPLICATIONS FOR GRANT OR TRANSFER OF LICENCE**

##### **Division 1-Eligibility to apply**

##### **Eligibility of applicants**

*19. An applicant for the grant or transfer of the casino licence must be a body corporate.*

##### **Division 2-Making of applications**

##### **Applications**

*20. (1) Applications for the grant, renewal or transfer of the casino licence are to be made to the Authority.*

*(2) An application-*

*(a) must be in the form required by the Authority; and*

*(b) in the case of an application for the transfer of the licence – must be made jointly by the proposed transferor and transferee; and*

- (c) *must be supported by the information required by the Authority; and*
  - (d) *in the case of an application for the licence that is to be the first licence granted after the commencement of this Act – must be accompanied by a letter from Aser Nominees Pty. Ltd. as trustee for the Aser Property Trust stating that it is prepared to treat with the applicant for the transfer of a lease of the casino to the applicant.*
- (3) *If a change of circumstances occurs after an application is made but before it is determined, the applicant must immediately give the Authority full details of the change.*

*Maximum penalty:                      \$10 000*

- (4) *An applicant may withdraw an application at any time.*
- (5) *In the case of the application for the licence that is to be the first licence granted after the commencement of this Act, the application lapses if Aser Nominees Pty. Ltd. notifies the Authority that it is no longer prepared to treat with the applicant for the transfer of a lease of the casino to the applicant.*

### **Division 3-The Authority's recommendation**

#### **Suitability of applicant for grant, renewal or transfer of the casino licence**

- 21.** (1) *The Authority must not recommend the grant or renewal of the casino licence unless satisfied that the applicant is a suitable person to operate the casino.*
- (2) *If the Authority is satisfied that two or more applicants would be suitable persons to operate the casino, the Authority may recommend to the Governor that a choice be made between those applicants (but a recommendation need not be delayed until the Authority has assessed all applications).*
- (3) *The Authority must not recommend the transfer of the casino licence unless satisfied that the applicant that is the proposed transferee is a suitable person to operate the casino.*
- (4) *In assessing the suitability of an applicant, the Authority may have regard to-*
- (a) *the applicant's corporate structure; and*
  - (b) *the extent of the applicant's financial resources and whether they are suitable and adequate to ensure the financial stability of the casino; and*
  - (c) *the applicant's financial background; and*
  - (d) *the extent of the applicant's business acumen and experience and, in particular, whether the applicant's business experience would suggest that it could operate the casino successfully; and*
  - (e) *the applicant's reputation; and*

- (f) *the character, reputation, and financial background of the applicant's close associates; and*
  - (g) *any representations made by the Minister; and*
  - (h) *any other matters the Authority thinks fit.*
- (5) *In considering an application for a casino licence (other than an application for the first grant of a licence after the commencement of this Act), the Authority may have regard to –*
- (a) *the nature and standard of the casino and the facilities to be provided in, or in conjunction with, the casino; and*
  - (b) *the likely impact of the casino on tourism, employment and economic development in the region in which the casino is (or is to be) located.*

#### **Division 4-Investigations by the Authority**

##### **Investigation of application**

22. (1) *The Authority must carry out the investigations and make the inquiries it considers necessary to enable it to make an appropriate recommendation on an application under this Part.*
- (2) *For the purposes of the investigation, the Authority must obtain from the Commissioner of Police a report on anyone whose suitability to be concerned in or associated with the management and operation of the casino is to be assessed by the Authority.*

##### **Investigative powers**

23. (1) *The Authority may, by notice in writing -*
- (a) *require any person to provide to the best of the person's knowledge and belief, information, verified by statutory declaration, on matters relevant to the investigation that are specified in the notice; or*
  - (b) *require any person to appear before the Authority for examination on matters relevant to the investigation; or*
  - (c) *require any person to produce to the Authority, within a period stated in the notice, documents or other material relevant to the investigation.*
- (2) *The Authority may also require any person whose suitability to be concerned in or associated with the management and operation of the casino is under investigation to submit to the taking of photographs, finger prints and palm prints.*
- (3) *A person is guilty of an offence if the person –*

- (a) *fails to comply with a requirement made by the Authority under this section; or*
- (b) *having appeared for examination before the Authority, refuses or fails to take an oath, or to answer a question to the best of the person's knowledge and belief, when required to do so by the Authority.*

*Maximum penalty:*                      \$10 000

- (4) *The powers conferred by this section are in addition to those conferred in the Gaming Supervisory Authority Act, 1995.*

### **Governor and applicants to be notified of result of investigation**

- 24. *The Authority must notify the Governor and the applicant of the results of its investigation.*

### **Division 5-Costs of investigation**

#### **Costs of investigation**

- 25. (1) *The applicant for the grant or transfer of the licence must pay to the Minister the costs of an investigation for the purposes of this Part.*
- (2) *The Authority may require the applicant to make specified payments towards the costs of the investigation before the investigation begins and during the course of the investigation.*
- (3) *If a payment is not made as required by the Authority, the Authority may discontinue the investigation.*
- (4) *At the end of the investigation, the Authority must certify the cost of the investigation and any unpaid balance of that cost may be recovered from the applicant as a debt due to the State.*
- (5) *In proceedings for recovery of the cost (or the balance of the cost) of an investigation, the Authority's certificate is to be regarded as conclusive evidence of that cost.*

### **Division 6-Governor not bound by Authority's recommendation**

#### **Governor not bound**

- 26. *The Governor is not bound to act in accordance with the Authority's recommendation.*

In preparation for the tasks required of it pursuant to these provisions of the Casino Act, 1997, the Authority devoted a considerable amount of time and attention to preparing for a probity process in respect of each company that applied for the first grant of the casino licence under the Act.

A probity investigation team was assembled, consisting of three probity investigators and a manager. One of the investigators was seconded from the South Australia Police and the other two sourced from the private sector, following extensive research and consultation. The probity manager was seconded from within Government.

In order to ensure the integrity of the process, a probity auditor from the private sector was appointed, after calling for expressions of interest and interviewing a number of applicants.

To assist with the process, a legal officer was outposted from the Crown Solicitor's Office for a period of twelve months.

A formal application for the grant of the Casino licence was prepared (as envisaged by section 20(2) of the Casino Act, 1997) and was sent to five interested parties.

In February, 1998 the Government announced that no suitable bid for the purchase of the casino had been received and the casino sale process was terminated.

The probity team was initially suspended (in November, 1997) and ultimately disbanded in February, 1998.

It was envisaged by the Casino Act, 1997 that all costs incurred in connection with the probity process would be recovered from applicants for the grant of a licence. Because there were no applicants, contractual commitments to the probity investigation team and the probity auditor (totalling \$107,312), and the costs associated with the probity process, were ultimately required to be absorbed by the Authority.

## **4.2 Redefinition of licensed area**

Under the terms and conditions of the Casino Licence, the area of the casino covered by the casino licence is delineated on plans approved by the Authority.

During the course of the year, the Authority considered that it was timely for the licensed area to be reviewed and, if thought appropriate, be simplified or rationalised.

Interested parties attended a number of meetings, a site inspection was conducted, and new plans were prepared by the Office of the Liquor and Gaming Commissioner and subsequently approved by the Authority.

## **4.3 "Jack Attack"**

During the course of the year, the casino sought the approval of the Authority to vary the rules of Blackjack to permit the playing of a variant entitled "Jack Attack".

Close examination of the proposed rules led us to the conclusion that this game was not a variant but a new game which required a variation to the casino licence.

The Authority enquired into the proposal to vary the licence, including attending a demonstration of the game and seeking and obtaining advice from the Government Inspectorate. The Authority recommended to the Minister that the licence be varied by adding Jack Attack as a new game.

The Authority's recommendation was adopted, and the Governor, by notice published in the Gazette on 19 February, 1998, altered the terms and conditions of the licence accordingly.

#### **4.4 Barrings**

Section 19 of the Casino Act, 1983 provides:

- 19. (1) The Minister may, on the recommendation of the Commissioner of Police or the Commissioner, make an order prohibiting a person named in the order from entering the licensed casino.*
- (2) A person against whom an order is made under subsection (1) may, within thirty days after service of the order upon him, appeal against the order to the Authority.*
- (3) The Authority may, upon an appeal under subsection (2), confirm or revoke the order.*
- (4) A person against whom an order is in force under this section shall not contravene the order.*

*Penalty: Ten thousand dollars.*

- (5) The Minister may at any time revoke an order under this section.*

During the course of the current financial year the Authority delivered its written judgment whereby it refused one of the two appeals referred to in its Second Annual Report.

Otherwise, there was no further notification of any barring appeals during the report period.

Over time, it had become apparent to the Authority that the existing guidelines with respect to barring procedures were not sufficiently clear, and, having sought and obtained certain advice from the Crown Solicitor's Office, proposed new guidelines were prepared in consultation with the Liquor and Gaming Commissioner.

Following a number of meetings with interested parties the draft guidelines were agreed with the Liquor and Gaming Commissioner and advised to the Lotteries Commission and casino management.

#### **4.5 Complaints**

Reports of complaints made by casino patrons were received from the Government Inspectorate, and in some instances from the Liquor and Gaming Commissioner.

None of those complaints was considered to warrant any formal action being taken by the Authority.

#### **4.6 Appeal against revocation of employee approval**

The regulations under the Casino Act, 1983 provide for casino employees to be approved by the Liquor and Gaming Commissioner with a right of appeal vested in the Authority.

Regulation 4 provides as follows:

4. (1) *The Commissioner may –*
  - (a) *approve or refuse to approve;*
  - or*
  - (b) *revoke the approval of,*  
*a person's employment as a casino employee for any reason that the Commissioner considers sufficient.*
- (2) *Without limiting the effect of subregulation (1), the Commissioner may refuse to approve, or revoke the approval of, a person's employment as a casino employee for the reason that there appear to be circumstances such that –*
  - (a) *the person's employment might possibly prejudice the proper operation of the casino;*
  - or*
  - (b) *the person's employment might possibly prompt adverse criticism of the casino's operation (whether or not such criticism would be well based).*

Regulation 5 provides:

5. *The Commissioner must, before revoking the approval of a person's employment as a casino employee –*
  - (a) *give the person written notice of the proposed revocation and a statement of the reasons that the Commissioner considers justify such action;*
  - and*
  - (b) *allow the person a reasonable opportunity within 14 days after the giving of that notice to submit evidence and make submissions to the Commissioner.*

Regulation 6 provides:

6. (1) *Where a person is refused approval as a casino employee, or a person's*

*approval as a casino employee is revoked, by the Commissioner, the person may within two days after receiving notice of the Commissioner's decision, apply to the Authority for a review of the decision.*

- (2) *On an application under subregulation (1), the Authority may, without being required to hear the applicant –*
  - (a) *refuse to review the Commissioner's decision;*
  - or*
  - (b) *review the Commissioner's decision.*
- (3) *Where the Authority decides to review the Commissioner's decision, the Authority may conduct an inquiry into the matter and on such an inquiry –*
  - (a) *uphold the Commissioner's decision;*
  - or*
  - (b) *direct the Commissioner to approve the applicant's employment or continued employment as a casino employee.*
- (4) *The Commissioner must give effect to any decision of the Authority under this regulation.*

During the financial year ended 30 June, 1998 the Authority received one appeal from a casino employee whose approval had been terminated by the Liquor and Gaming Commissioner when the employee was charged with drug related offences.

The Authority invited the applicant to present a submission through her legal representative, but before a final decision was made, the applicant sought to withdraw the appeal. The appeal was dismissed by the Authority.

#### **4.7 Other Casino matters**

Included in a range of other matters discussed at various meetings of the Authority were the following:

- TAB in the casino
- Jackpot provisions for casino games
- Placement of gaming machines within The Adelaide Casino
- Termination of on-line keno and complaint regarding disposition of jackpot amount
- Freedom of Information application by former casino employee
- Cessation of "Casino Cash"
- Proposed new Blackjack cloth layout
- Recognition of interstate barrings
- Improved reporting by Lotteries Commission of South Australia
- Automatic teller machines outside the licensed gaming area of casino
- Casino surveillance.

## **5. Matters relating to gaming machines in hotels and clubs**

### **5.1 Amendments to Gaming Machines Act, 1992**

There were a number of amendments to the Gaming Machines Act, 1992 during the course of the financial year ended June 30, 1998.

In response to community concerns, section 15A now provides that the Commissioner cannot grant an application that would result in a gaming venue being located under the same roof as a shop or within a shopping complex.

As part of the budget measures announced for the forthcoming year, tax rates on machine gaming revenue were adjusted. As from 1 July, 1998, clubs and community hotels will pay an average of 5% less tax than hotels at all net gaming revenue levels, and hotels will pay an additional 5% tax on annual net gaming revenue in excess of \$945,000. The surcharge continues to apply.

The Gaming Machines (Administrative Restructuring) Amendment Bill, 1997 referred to in the Authority's Second Annual Report has not yet been debated in the South Australian Parliament. That Bill had been introduced with three other bills which became the Casino Act, 1997; the Gaming Supervisory Authority (Administrative Restructuring) Amendment Act, 1997; and the Liquor Licensing (Administrative Restructuring) Act, 1997. The four bills were introduced into the South Australian Parliament on 5 March, 1997 and were designed *inter alia* to implement certain recommendations made by the Authority in its Report tabled in Parliament on 3 October, 1996.

The major change to the Gaming Machines Act, 1992 which would be effected if the Bill is passed is to clarify and strengthen the powers of the Liquor Licensing Commissioner (who would become the Liquor and Gaming Commissioner by the proposed amendments) to take disciplinary action in appropriate circumstances against a licensee under the Act, and to give the Commissioner power to give a licensee an expiation notice in appropriate circumstances instead of taking disciplinary action.

### **5.2 Activities of Authority in relation to Gaming Machines Act**

As stated earlier in this Annual Report, regular written reports were received at the request of the Authority from the various licence holders and other agencies, including the Office of the Liquor and Gaming Commissioner.

The following classes of licences are provided for in section 14 of the Gaming Machines Act, 1992:

- (a) **Gaming machine licence** – which authorises the licensee to possess approved gaming machines on premises designated in the licence and to conduct gaming on those machines:

- (b) **Gaming machine dealers' licence** – which authorises the licensee to manufacture gaming machines and prescribed gaming machine components and to sell or supply to the State Supply Board (now Supply SA), or to another holder of a gaming machine dealers' licence, approved gaming machines, prescribed gaming machine components and gaming machine equipment;
- (c) **Gaming machine supplier's licence** – which authorises the licensee, acting through an approved agent, to purchase from a licensed gaming machine dealer, and to sell or supply to the holders of gaming machines licences, approved gaming machines, prescribed gaming components and gaming equipment;
- (d) **Gaming machine monitor licence** – which authorises the licensee to provide and operate an approved computer system for monitoring the operation of all gaming machines operated pursuant to gaming machine licences under this Act;
- (e) **Gaming machine service licence** – which authorises the licensee to install, service and repair approved gaming machines, prescribed gaming machine components and gaming equipment.

Section 15 of the Act sets out the eligibility criteria for persons to hold a gaming machine licence as follows:

- (a) the holder of a hotel licence (whether temporary or otherwise);
- (b) the holder of a club licence (whether restricted or unrestricted);
- (c) the holder of a general facility licence (whether temporary or otherwise) with certain provisos;
- (d) a person entitled to carry on business under such a licence pursuant to section 80 or 81 of the Liquor Licensing Act, 1985.

The Authority reconsidered a number of its recommendations made in the course of its 1996 Inquiry.

In addition, the Legal Officer appointed in August, 1998 attended a gaming machine training course run by the Licensed Clubs Association.

The use of note validators on gaming machines continues to be an issue within the industry.

### 5.3 Results of gaming machine operations

The Authority has been advised by the Liquor and Gaming Commissioner in regard to the operation of gaming machines for the year ended 30 June, 1998 as follows:

Number of venues with machines	513
Number of machines	10,898
Average number of gaming machines per venue	21.2

Net gambling revenue	\$394.6m
Government share (gaming tax)	160.7m
Venue share	\$233.9m

Other information relating to the industry since commencement of operation on 25 July, 1994 is as follows:

Net gambling revenue	\$1263.5m
Gaming tax (including surcharge)	\$467.9m
Venue share	\$795.6m

## 5.4 Other gaming machine matters

During the course of the year the Authority considered a number of other matters in connection with gaming machines, one of the most frequent of which related the sale of second hand gaming machines.

The Authority was advised that difficulties result from licensees being permitted to have no more than 40 machines in their possession at any time. This is said to cause difficulties during the changeover period during which licensees may be trading superseded machines for new machines.

The Authority remains of the view, as recommended during the course of its 1996 Inquiry, that the Gaming Machines Act ought to be amended to permit licensees to have in their possession no more than 40 “operable” machines, which would permit licensees to retain possession of deactivated machines during the course of the changeover to new machines.

## 6. Other matters

### 6.1 Attendance at Conferences

In October, 1997, the Deputy Presiding Member attended the consecutive conferences of the International Association of Gaming Regulators and the International Association of Gaming Attorneys in London, followed by the World Gaming Congress and Expo in Las Vegas.

A key theme of all three conferences was the advent of internet gaming, with the prohibitionist approach of US regulators being contrasted with the permissive approach of other jurisdictions including Australia.

Other matters canvassed at the IAGR Conference included probity of gaming operators, whilst the IAGA Conference looked at investigative and licensing processes and emerging casino legislation in Europe. The World Gaming Congress and Expo considered the introduction of in-flight gaming and there was an informative panel session on differing world approaches to obtaining gaming licences.

The Deputy Presiding Member reported that in order to add the maximum possible value to their role as citizen/regulators (as opposed to professional regulators) Authority members must keep abreast of global developments and be willing to participate in discussions of interest or significance to regulators. He concluded that the great value in attending these conferences is that participants learn that not only is there no value in trying to re-invent a well-proven wheel, but that there are significant dangers in doing so, the Nevada and New Jersey models continuing to be the basis of all credible regulatory systems.

The Legal Officer/Acting Secretary attended two conferences, one run by the National Association for Gambling Studies, on the subject of Problem Gambling, and the other convened by the Australian Institute of Criminology with respect to Gambling and Technology, which focused on the advent of Internet gaming.

It is considered that the attendance of members and staff at conferences is a valuable and important part of the Authority's functions because it assists in them becoming and remaining well informed and it provides a voice for this State at national and international level.

## **6.2 Attendance before Social Development Committee**

The Social Development Committee convened by the Parliament of South Australia to inquire into gaming within this State was reconvened following the State election.

The Presiding Member and Acting Secretary attended before the Committee, whose report was not delivered during the course of this financial year.

## **6.3 National Inquiry**

The Australian Productivity Commission has been commissioned by the Federal Government to conduct a national inquiry into gambling within Australia. As at the end of the financial year, terms of reference for the inquiry were being finalised.

## **6.4 U.S.A. Inquiry**

In line with other Governments around the world, the Government of the United States of America in conjunction with the American Gaming Association has set up the National Gambling Impact Study Commission which is charged with the responsibility of studying a wide range of gambling issues, including a review of existing policies and practices, tribal gaming and the social impact of gaming.

The Authority is monitoring progress of the Commission.

## **6.5 National Competition Policy**

In line with Federal policy, the State Government is required to review all its existing legislation and practices with a view to ensuring competition, including in the gaming industry.

This has caused concern within the Government as existing Government policy is for the existence of a single casino within this State. Current social attitudes may also militate against any suggestion that an additional casino licence or licences be granted.

## **6.6 Contact with other jurisdictions**

The Authority has continued to maintain contact with all other Australian gaming jurisdictions on a wide variety of matters.

It is the view of the Authority that exchange of information as between Australian gaming jurisdictions is vital.

## **6.7 1999 Regulators' Conference**

The next annual conference of Australasian gaming regulators is due to be held in Adelaide in April, 1999. The conference will be jointly hosted by the Gaming Supervisory Authority and the Office of the Liquor and Gaming Commissioner.

Work in preparation for the conference is well under way.

## **6.8 Interactive gaming**

This has emerged as an important issue nationwide.

State Ministers have agreed on a national model and a number of States are in the process of legislating to implement this scheme. A number of other States have indicated their intention not to participate in the model.

## **7. Conclusion**

The Authority has given much time and spent much effort during this year in preparing for the probity investigations of applicants for the grant of the first licence under the Casino Act, 1997. No such investigations occurred as no applications were received.

Further time and effort was spent in approving Clianthus Pty Ltd (now Adelaide Casino Pty Ltd) as the appointed Operator of The Adelaide Casino. In that approval the Authority expressed its view that it is very important that the regulatory regime reflected within the Casino Act, 1997 and a new casino licence be implemented as soon as possible. If it is not then the Authority will take such action as it is empowered to take under the Casino Act, 1983, the current licence and the current Management Agreement to ensure, so far as it can, that a regulatory regime as envisaged under the new Act and proposed licence is effected.

The Authority records its appreciation for the co-operation it has received during this year from the various stakeholders in that part of the gaming industry in South Australia for which it has a responsibility. The Authority has particularly appreciated the assistance of the Liquor and Gaming Commissioner, Mr Bill Pryor, throughout the year.

The Authority also records its gratitude for and appreciation of the work throughout the year of its Legal Officer (and in the latter half of the year also as Acting Secretary) Ms Jennifer Hill. Ms Hill's work during preparation for our probity investigations under the new Casino Act was invaluable, and her willingness to take on the extra duties associated with being Acting Secretary to the Authority in the last half of the year 1997-1998 was very much appreciated.

The Authority records its appreciation and thanks for the efforts of its executive assistants, Mrs A Wilson and Mrs S Facci, throughout the year.

This Annual Report is signed by the Gaming Supervisory Authority and is submitted in accordance with a resolution of the Authority made on 30<sup>th</sup> September, 1998.

.....  
**G.L. Muecke, LLB**  
Presiding Member

.....  
**D.J. Green, BComm, LLB(Hons),  
LLM, MBA(Hons), FTIA, FAICD,  
AIMM, MNIA**  
Deputy Presiding Member

.....  
**A.M. Pederick, FCPA,FCIS, FCIM, JP**  
Member

.....  
**M.J. Jeffreys, AssocDipBus, FAHRI,  
AFAIM, MAICD**  
Member

.....  
**J.H. Brown, LLB, MAICD**  
Member