

CHAPTER 48

EXCLUSION OF PERSONS

Authority

N.J.S.A. 5:12-63(c), 69a, 71 and 71.2.

Source and Effective Date

R.2009 d.122, effective March 19, 2009.
See: 41 N.J.R. 121(a), 41 N.J.R. 1891(b).

Chapter Expiration Date

Chapter 48, Exclusion of Persons, expires on March 19, 2014.

Chapter Historical Note

Chapter 48, Exclusion of Persons, was adopted as R.1978 d.362, effective October 16, 1978. See: 10 N.J.R. 407(d), 10 N.J.R. 522(b).

Pursuant to Executive Order No. 66(1978), Chapter 48, Exclusion of Persons, was readopted as R.1983 d.475, effective October 13, 1983. See: 15 N.J.R. 1466(a), 15 N.J.R. 1874(c).

Pursuant to Executive Order No. 66(1978), Chapter 48, Exclusion of Persons, was readopted as R.1988 d.525. See: 20 N.J.R. 2252(a), 20 N.J.R. 2802(b).

Pursuant to Executive Order No. 66(1978), Chapter 48, Exclusion of Persons, was readopted as R.1993 d.462, effective August 20, 1993. See: 25 N.J.R. 2661(a), 25 N.J.R. 4510(b).

Pursuant to Executive Order No. 66(1978), Chapter 48, Exclusion of Persons, was readopted as R.1998 d.455, effective August 14, 1993. See: 30 N.J.R. 2168(a), 30 N.J.R. 3261(a).

Subchapter 2, Self-Exclusion, was adopted as R.2001 d.308, effective September 4, 2001 (operative September 10, 2001). See: 33 N.J.R. 1569(a), 33 N.J.R. 3035(a).

Chapter 48, Exclusion of Persons, was readopted as R.2004 d.11, effective December 10, 2003. See: 35 N.J.R. 4185(a), 36 N.J.R. 200(a).

Chapter 48, Exclusion of Persons, was readopted as R.2009 d.122, effective March 19, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. PERSONS REQUIRED TO BE EXCLUDED

19:48-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Candidate” means any person whose name is included in a petition to place such person on the exclusion list pursuant to section 71 of the Act and these regulations.

“Career or professional offender” means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state.

“Cheat” means any person whose act or acts in any jurisdiction would constitute any offense under Sections 113, 114, and 115 of the Act, if prosecuted under New Jersey law.

“Excluded person” means any person who has been placed upon the list by preliminary or final order of the Commission and who pursuant to section 71 of the Act and these regulations is required to be excluded or ejected from a casino hotel facility.

“List or exclusion list” means a list of names of persons who, pursuant to Section 71 of the Act and the Commission’s regulations, are required to be excluded or ejected from casino hotel facilities.

“Occupational manner or context” means the systematic planning, administration, management, or execution of an activity for financial gain.

As amended, R.1982 d.359, effective October 18, 1982.

See: 14 N.J.R. 904(a), 14 N.J.R. 1167(a).

Amended definition of “candidate” and “excluded person”.

Amended by R.1994 d.32, effective January 18, 1994.

See: 25 N.J.R. 4739(a), 26 N.J.R. 487(a).

Case Notes

Finding of being inimical to interest of State or licensed gaming. Div. of Gaming Enforcement v. Merlino, 8 N.J.A.R. 126 (1985).

19:48-1.2 Maintenance and distribution of list

(a) The Commission shall maintain a list of persons to be excluded or ejected from a licensed casino establishment.

(b) The list shall be open to public inspection and shall be distributed to every casino licensee within this State, who shall acknowledge receipt thereof in writing.

(c) Each casino licensee shall have the responsibility to distribute copies of the list to its employees. Any additions, deletions, or other updates to the list shall be distributed by each casino licensee to its employees within two business

days of the casino licensee's receipt of such updates from the Commission.

Amended by R.2004 d.11, effective January 5, 2004.
See: 35 N.J.R. 4185(a), 36 N.J.R. 200(a).

In (c), added second sentence.

Case Notes

Authority of commission. *Uston v. Resorts Intern. Hotel, Inc.*, 179 N.J.Super. 223, 431 A.2d 173 (App.Div.1981), affirmed 445 A.2d 370.

19:48-1.3 Criteria for exclusion

(a) The exclusion list may include any person who meets any of the following criteria:

1. A career or professional offender whose presence in a licensed casino establishment would be inimical to the interest of the State of New Jersey or of licensed gaming therein;
2. An associate of a career or professional offender whose association is such that his or her presence in a licensed casino establishment would be inimical to the interest of the State of New Jersey or of licensed gaming therein;
3. Any person who has been convicted of a criminal offense under the laws of any State, or of the United States, which is punishable by more than six months in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed casino establishment would be inimical to the interest of the State of New Jersey or of licensed gaming therein; or
4. Any person whose presence in a licensed casino establishment would be inimical to the interest of the State of New Jersey or licensed gaming therein, including, but not limited to:

- i. Cheats;
- ii. Persons whose privileges for licensure have been revoked;
- iii. Persons who pose a threat to the safety of the patrons or employees of a casino licensee;
- iv. Persons with a documented history of conduct involving the undue disruption of the gaming operations of casino licensees; and
- v. Persons subject to an order of the Superior Court of New Jersey excluding such persons from all casino hotel facilities.

(b) For purposes of (a) above:

1. A person's presence may be considered "inimical to the interest of the State of New Jersey or of licensed gaming therein" if known attributes of such person's character and background:

i. Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of licensed casino gaming;

ii. Could reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by the Act; or

iii. Would create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.

2. A finding of inimicality may be based upon the following:

i. The nature and notoriety of the attributes of character or background of the person;

ii. The history and nature of the involvement of the person with licensed casino gaming in New Jersey or any other jurisdiction, or with any particular casino licensee or licensees or any related company thereof;

iii. The nature and frequency of any contacts or associations of the person with any casino licensee or licensees, or with any employees or agents thereof; or

iv. Any other factor reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the casino industry and its employees.

(c) Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

Amended by R.1994 d.32, effective January 18, 1994.
See: 25 N.J.R. 4739(a), 26 N.J.R. 487(a).

Law Review and Journal Commentaries

Casinos-Blackjack-Card Counters-Contracts-Discrimination-Jurisdiction. P.R. Chenoweth, 137 N.J.L.J. No. 6, 59 (1994).

Case Notes

Independent authority to exclude persons. *Campione v. Adamar of New Jersey, Inc.*, 274 N.J.Super. 63, 643 A.2d 42 (L.1993).

Failure to prove that individual was a career offender, or an associate of such. *Division of Gaming Enforcement v. Staluppi*, 94 N.J.A.R.2d (CCC) 32.

Exclusion; lack of evidence. *Division of Gaming Enforcement v. Staluppi*, 94 N.J.A.R.2d (CCC) 30.

Finding of being a career criminal offender, being an associate of a career or professional offender and being inimical to interest of State or licensed gaming. *Div. of Gaming Enforcement v. Merlino*, 8 N.J.A.R. 126 (1985).

Grounds for exclusion. *Div. of Gaming Enforcement v. Merlino*, 8 N.J.A.R. 126 (1985).

19:48-2.5 Removal from self-exclusion list

(a) Except for those persons choosing a life-time self-exclusion, any self-excluded person may, upon the expiration of the period of self-exclusion requested pursuant to N.J.A.C. 19:48-2.2(c)2, request removal of his or her name from the self-exclusion list by submitting, in person, a completed request for removal as required in (b) below. The request shall be delivered to either the Employee License Information Unit of the Commission located at the Arcade Building, Tennessee Avenue and the Boardwalk, in Atlantic City, or to the Trenton office of the Division of Gaming Enforcement located at 140 East Front Street. Any person submitting a request for removal from the list shall be required to present valid identification credentials containing his or her signature and either a photograph or a general physical description.

(b) A request for removal from the self-exclusion list shall be in a form prescribed by the Commission, which form shall include:

1. The identifying information specified in N.J.A.C. 19:48-2.2(c)1i through iv;
2. The signature of the person requesting removal from the self-exclusion list indicating acknowledgment of the following statement: "I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for self-exclusion, and I authorize the Commission to permit all New Jersey casino licensees to reinstate my

gaming privileges at licensed casinos and simulcasting facilities.";

3. The type of identification credentials examined containing the signature of the person requesting removal from the self-exclusion list, and whether said credentials included a photograph or general physical description of the person; and

4. The signature of a Commission or Division employee authorized to accept such request, indicating that the signature of the person on the request for removal from the self-exclusion list appears to agree with that contained on his or her identification credentials and that any photograph or physical description of the person appears to agree with his or her actual appearance.

(c) The Commission shall, by the end of the fifth business day following receipt of the request, delete the name of the person requesting removal from the self-exclusion list and notify each casino licensee of such removal by depositing a notice in the mail slot of each casino licensee in accordance with the provisions of N.J.A.C. 19:40-3.3(d).

Case Notes

New Jersey Casino Control Commission properly denied a gambler's request to be removed from the lifetime self-exclusion list as the fact that the gambler was also excluded from affiliated out-of-state casinos was a collateral consequence that did not negate the gambler's voluntary request to be placed on the list. *In re Petition of S.D., 399 N.J. Super. 107, 943 A.2d 188, 2008 N.J. Super. LEXIS 65 (App.Div. 2008).*