

CHAPTER 48**EXCLUSION OF PERSONS****Authority**

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

Source and Effective Date

R.1993 d.462, effective August 20, 1993.
See: 25 N.J.R. 2661(a), 25 N.J.R. 4510(b).

Executive Order No. 66(1978) Expiration Date

Chapter 48, Exclusion of Persons, expires on August 15, 1998.

Chapter Historical Note

Chapter 48, Exclusion of Persons, became effective on October 16, 1978 as R.1978 d.362. See: 10 N.J.R. 407(d), 10 N.J.R. 522(b). Pursuant to Executive Order No. 66(1978), chapter 48 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 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 was readopted as R.1993 d.462. See Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS**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.

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

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).

19:48-1.4 Duties of the Division of Gaming Enforcement

(a) The Division shall, on its own initiative, or upon referral by the Commission, investigate any individual who would appear to be an appropriate candidate for placement on the exclusion list.

(b) If, upon completion of an investigation, the Division determines that an individual should be placed on the exclusion list, the Division shall file a petition for exclusion with the Commission, identifying the candidate and setting forth a factual basis why the Division believes the candidate satisfies the criteria for exclusion established by section 71 of the Act and this chapter.

(c) If the Division files a complaint alleging a violation of section 71d of the Act and N.J.A.C. 19:48-1.7(b)2 against any licensee, the Division shall file simultaneously a petition to exclude the person alleged in the complaint to meet the criteria for exclusion in N.J.A.C. 19:48-1.3.

(d) If, upon completion of an investigation undertaken upon referral by the Commission, the Division determines that an individual should not be placed on the exclusion list, the Division shall so state in writing to the Commission.

As amended, R.1982 d.359, effective October 18, 1982.
See: 14 N.J.R. 904(a), 14 N.J.R. 1167(a).

Grammatical changes. Also changed Division's duties from recommending and submitting a report on excluding a person to making a determination of exclusion and filing a petition with supporting affidavits.

Amended by R.1988 d.525, effective November 7, 1988.
See: 20 N.J.R. 2252(a), 20 N.J.R. 2802(b).

Substituted "this chapter" for "these regulations".
Amended by R.1994 d.32, effective January 18, 1994.
See: 25 N.J.R. 4739(a), 26 N.J.R. 487(a).

19:48-1.5 Procedure for entry of names

(a) The Commission may place a person on the exclusion list as follows: