

# **GAMBLING LEGISLATION AMENDMENT BILL 2000**

## **EXPLANATORY NOTES**

### **Short Title**

*Gambling Legislation Amendment Bill 2000*

### **Objectives of the Legislation**

The *Gambling Legislation Amendment Bill 2000* implements the high priority policy initiatives outlined in the Government's *Policy Direction for Gambling in Queensland* published in April 2000. The majority of initiatives relate to the *Gaming Machine Act 1991*.

The changes proposed in this Bill include provision for:

- Including an object in all seven gambling Acts, to ensure that on balance, the State and the community as a whole benefit from gambling.
- Increased powers for the Queensland Gaming Commission, particularly in relation to issuing guidelines, (eg, stating its views on gambling in shopping centres, location of gambling venues, etc).
- Increased community input including advertising for and considering the views of the community in gaming machine licensing decisions.
- Requiring a community impact statement and a statement of responsible gambling initiatives for all applications relating to new gaming machine sites and substantial increases in machine numbers.
- Strengthening harm minimisation provisions such as preventing credit betting.
- Restructuring of the community benefit funds.

- Giving a court the option to postpone sentencing an excluded person who re-enters a casino to enable the person to undergo counselling.

### **Reasons for the Legislation**

Following extensive consultation over a 12-month period, the Government released the *Policy Direction for Gambling in Queensland*, which reflects its commitment to ensure that the benefits to the community from gambling outweigh the costs. The *Gaming Legislation Amendment Bill 2000* incorporates the higher priority Policy Direction initiatives that need to be implemented early in 2000-2001. Further legislation is planned for later in 2000-2001 to finalise implementation of the Policy Direction initiatives.

In addition, the legislation incorporates minor technical amendments to the gambling Acts such as specifying that accounting records are required to be kept when general gaming records are required under the *Charitable and Non-Profit Gaming Act 1999*.

### **Estimated Cost of Government Implementation**

The Bill's major cost to the Government arises from the additional community input into the processing of gaming machine applications by the Queensland Office of Gaming Regulation (QOGR) and the Queensland Gaming Commission (the Commission). The Bill's requirements to expand community input and consultation in relation to gaming machine licences, significant increases in the number of gaming machines at sites, and other community protection measures are estimated to require an additional \$750,000 per annum for processing of community concerns. This figure would also encompass extra inspection activities to ensure additional licence conditions and harm minimisation practices are in place.

Previous experience of the consideration of the various community and industry views on contentious applications has proven to be complex and time consuming. Funding has been provided in the 2000-2001 budget to implement these provisions.

## **Assessment of Bill's Consistency with Fundamental Legislative Principles**

The Legislation has been prepared taking into consideration fundamental legislative principles.

## **Consultation**

The *Policy Direction for Gambling in Queensland* is the result of an extended review of gambling in Queensland. The Policy Direction has been developed in an environment of extensive public consultation.

The consultation process took place as a result of a twelve-month examination of gambling in Queensland. The Government consulted with industry participants and other parties, including Government agencies. This comprised the Review of Gaming in Queensland and the *Green Paper on Gaming in Queensland* prior to the publication of the *Policy Direction for Gambling in Queensland*.

Information sessions were held for key industry and community stakeholders regarding the proposed amendments. Representatives present at the sessions included - Licensed Monitoring Operators; Gaming Machine Manufacturers; Clubs Queensland; Queensland Hotels Association; Club Manager's Association of Australia; Breakeven; Queensland Council of Social Services; Local Government Association of Queensland Inc; and TAB Gaming Services (TABQ).

The following departments were also consulted—the Department of Tourism and Racing; the Department of Justice and the Attorney-General; the Queensland Police Service; the Department of Families, Youth and Community Care; and the Department of Communication and Information, Local Government and Planning and Sport.

## NOTES ON PROVISIONS

### PART 1—PRELIMINARY

#### **Short Title**

*Clause 1* sets out the short title of the Act.

#### **Commencement**

*Clause 2* provides for the commencement of this Act from 1 September 2000.

### PART 2—AMENDMENT OF CASINO CONTROL ACT 1982

*Clause 3* provides that Part 2 amends the *Casino Control Act 1982*.

*Clause 4* inserts section 3 which sets out the object of the Act. The object is to ensure that, on balance, the State and community benefit from casino gambling. This is consistent with amendments to be included in all other gambling Acts.

*Clause 5* amends the interpretation to include the term “conviction”.

*Clause 6* amends section 62 to provide that the chief executive can not approve the possession of a gaming machine by a casino if possession would exceed the gaming machine limit for the casino set by the Minister, and makes a minor technical amendment.

*Clause 7* amends section 65A to provide for the chief executive to approve another type of gaming document to protect a player’s wager on a round of play against loss.

*Clause 8* amends section 66 to increase the penalty from 40 to 200 penalty units if a casino operator accepts credit wagers.

*Clause 9* amends section 94 to enable the police commissioner to notify other Australian jurisdictions of exclusions made under the section. This will allow for the free exchange of information regarding exclusions between jurisdictions, allowing for reciprocal exclusion action if appropriate.

*Clause 10* amends section 99 to provide that if a court finds a person guilty of breaching the section and is satisfied that the person is a problem gambler, the court may postpone imposing a penalty on the condition that the person attends counselling specified by the court.

*Clause 11* amends section 118 to make a minor technical amendment.

### **PART 3—AMENDMENT OF CHARITABLE AND NON-PROFIT GAMING ACT 1999**

*Clause 12* provides that Part 3 amends the *Charitable and Non-Profit Gaming Act 1999*.

*Clause 13* amends section 3 to incorporate the overarching object of the Act. The overarching object is to ensure that, on balance, the State and community benefit from general gaming. This is consistent with amendments to be included in all other gambling Acts. The original objects are restated and included within the overarching object.

*Clause 14* amends section 10 to provide that a constituent unit of an eligible association is also an eligible association. This will avoid potential difficulties where bodies are incorporated at a State or National level, but operate through local groups.

*Clause 15* amends section 12 to add that lucky envelopes do not include a game in which the determination of the winning ticket depends on a future event. This will clarify the position of games such as “football doubles” as other than lucky envelopes.

*Clause 16* replaces section 39 to expand the entities which may apply for a category 3 gaming licence. This will allow an appropriately formed parents and citizens association and a registered political party to apply for a licence.

*Clause 17* amends section 78 to provide for the keeping of accounting records in accordance with a regulation. This provision will assist in ensuring that the range and nature of accounting records maintained are adequate to ensure that games are conducted honestly and proceeds are applied appropriately.

*Clause 18* amends section 98 to provide the mechanism by which a person other than an operator can apply for approval of regulated general gaming equipment.

*Clause 19* lists amendments to the dictionary. In particular, it amends the definition of regulated general gaming equipment to include equipment that uses a random number generator to conduct promotional games.

## **PART 4—AMENDMENT OF GAMING MACHINE ACT 1991**

*Clause 20* provides that part 4 amends the *Gaming Machine Act 1991*.

*Clause 21* inserts section 1A which sets out the object of the Act. The object is to ensure that, on balance, the State and community benefit from gaming machine gambling. This is consistent with amendments to be included in other gambling Acts.

*Clause 22* lists amendments to the Definitions.

*Clause 23* amends section 17 to provide the Queensland Gaming Commission with the power to issue guidelines dealing with matters within the scope of the object of the Act. The commission will therefore be able to provide guidance on matters to be included in supporting applications, such as the content of a community impact statement. The commission will also be able to use guidelines to explain its attitude to the location of gaming within the community (eg. the location of gaming machines within shopping centres), or within sites. The commission will also be empowered to provide advice to the Minister.

*Clause 24* amends section 29 to add that a person may appeal to the Minister regarding decisions by the commission on hours of gaming.

*Clause 25* amends section 30 to extend the time for lodgement of appeal submissions and information with the Minister from 14 days to 28 days.

*Clause 26* inserts part 3 division 1 heading.

*Clause 27* inserts part 3 Divisions 2 and 3 headings. The new Division 2 provides requirements for dealing with applications of significant community impact. Applicants for new sites, additional sites and significant increases in machines will need to submit a community impact statement and a statement of responsible gambling initiatives. Those applicants will also be required to publicly advertise the application. This may be achieved via a composite notice with a liquor licence application. Any member of the public may comment on an application. However, the commission may disregard comments which are beyond a scope of subjects addressed in its guidelines. Further, comments may be specifically invited from relevant local government and Members of the Legislative Assembly.

*Clause 28* amends section 56 to add that an application must specify the hours of gaming being sought.

*Clause 29* amends section 57 to expand the chief executive's responsibilities when considering applications for gaming machines (eg. provides the chief executive with the power to advise an applicant that a recommendation to refuse the application will be made because of the applicant's proposed location of gaming machines).

*Clause 30* expands section 58 to require the commission, in making its decision on an application for a gaming machine licence, to consider any relevant comments from the community or from entities specifically invited to comment.

*Clause 31* replaces sections 59 and 60 to add that the commission must fix the number of gaming machines and hours of gaming and the matters to be considered in that decision making process. The clause also provides that limits on machine numbers for two or more premises will also apply to interstate clubs seeking an additional site in Queensland.

*Clause 32* amends section 61 to require applicants to state the hours of gaming being sought for additional premises.

*Clause 33* amends section 62 to require the chief executive to have regard to community comments in making the chief executive's recommendation to the commission regarding applications for additional premises and to give advice to the commission about the hours of gaming being sought.

*Clause 34* amends section 63 to provide that the commission must have regard to any relevant community comments about an additional premises application.

*Clause 35* replaces section 64 to provide for the commission to fix the number of gaming machines and the hours of gaming in relation to additional premises.

*Clause 36* inserts a heading for part 3 Division 5.

*Clause 37* inserts a heading for part 3 Division 6.

*Clause 38* omits section 79.

*Clause 39* inserts a heading for part 3 Division 7.

*Clause 40* amends section 83 to provide that, if the approved number of gaming machines has been altered within the past 12 months, the commission may only approve an increase in gaming machines if there are exceptional reasons for the increase.

*Clause 41* amends section 84 to provide that the chief executive or the commission must also consider any relevant community comments when considering an application for increased numbers of gaming machines.

*Clause 42* inserts headings for part 3 Divisions 8 and 9. It also inserts four sections to provide for applications for increased hours of gaming.

*Clause 43* makes a minor technical amendment to section 88.

*Clause 44* amends section 90 to remove references to rented gaming machines. All machines previously owned by the Government have now been sold to sites, licensed monitoring operators and approved financiers.

*Clause 45* inserts headings for part 3 Divisions 10 and 11. It also inserts four sections to provide for applications for approval for decreased hours of gaming by a licensee and for action by an approved authority or inspector.

*Clause 46* inserts a heading for part 3 Division 12.

*Clause 47* inserts a heading for part 3 Division 13.

*Clause 48* amends section 95 to remove references to rented gaming machines. The clause also amends the definition of “clearance day”.

*Clause 49* amends section 97 to provide a further ground for cancellation or suspension of a gaming machine licence and letters of censure where a licensee locates or relocates machines without approval.



*Clause 50* amends section 104 to remove references to rented gaming machines.

*Clause 51* replaces section 109 and provides for authorisation of a substitute licensee in circumstances when the licensee under the *Liquor Act 1992* dies or is bankrupt or (if a corporation) becomes subject to an external administrator.

*Clause 52* amends section 139 to provide additional grounds for suspension or cancellation of a supplier's licence where a licensee fails to comply with a direction or fails to supply information to the chief executive or an inspector.

*Clause 53* expands section 168 to apply the section to all licensed suppliers, not just licensed monitoring operators.

*Clause 54* expands section 169 to apply the section to all licensed suppliers.

*Clause 55* expands section 170 to apply the section to all licensed suppliers.

*Clause 56* expands section 195 to require a licensee's nominee to ensure the conduct of gaming is in accordance with the licensee's gaming machine licence.

*Clause 57* expands section 200 to require the chief executive to assess whether an applicant under the part has the appropriate resources and skills to conduct business under the licence sought.

*Clause 58* extends the application of section 229 to ensure responsible advertising by the gaming machine industry.

*Clause 59* makes a minor technical amendment to section 230.

*Clause 60* amends section 235 to restrict the hours of gaming to those approved by the commission. It also provides that the hours for gaming can not extend beyond the hours when liquor is able to be consumed.

*Clause 61* amends section 238 to provide that a licensee or an employee must not misrepresent a cash advance to a person as another type of transaction where the licensee or employee knows or ought to know the cash advance is intended to be used for gaming. This will reinforce the power to deal with credit betting issues.

*Clause 62* inserts section 242A to provide for dealing with unclaimed payments from machine gaming.

*Clause 63* amends section 245 to provide that a licensee is not required to give the licensed monitoring operator a copy of the payout refusal report in circumstances where the dispute is resolved on the premises.

*Clause 64* amends section 249 to replace the involved licensee with a responsible licensed person for the purpose of reviews of payout refusal decisions by the chief executive. Further, the clause defines “responsible licensed person” for sites with and without a multiple site linked jackpot arrangement.

*Clause 65* amends section 265 to provide that a person must not acquire or dispose of a gaming machine without the chief executive’s approval.

*Clause 66* inserts section 265A to provide that a licensed monitoring operator or approved financier is authorised to obtain, possess, sell or buy gaming machines, linked jackpot equipment or restricted components. A licensed monitoring operator is also authorised to manufacture linked jackpot equipment.

*Clause 67* makes minor technical amendments to section 267.

*Clause 68* makes a minor technical amendment to section 271.

*Clause 69* omits sections 278, 279 and 280.

*Clause 70* omits section 281(1).

*Clause 71* amends section 283 to provide that a licensee is taken to have changed the percentage return to players on a machine when a new machine with the same game and betting unit of an existing machine in a site operates at a different percentage of return to players from the existing machine.

*Clause 72* makes a minor technical amendment to section 284.

*Clause 73* amends section 305 to require all clubs with more machines than a prescribed number to submit an annual community benefit statement detailing all financial contributions and support for charitable, sport and community purposes. It also provides for clubs to distinguish revenue received for “on premises” and “off premises” supply of liquor and other requirements of the chief executive.

*Clause 74* amends section 306 to allow the chief executive to seek information, in addition to gaming machine information, with respect to a club's operations.

*Clause 75* omits section 311.

*Clause 76* replaces sections 314 to 316 to make provision for the Minister to pay a prescribed percentage of all gaming machine taxes into the Community Investment Fund. It also establishes the gambling community benefit fund and committee to make recommendations to the Minister on the distribution of its funds.

*Clause 77* makes minor amendments to section 317 to remove reference to monthly fees.

*Clause 78* amends section 322 to provide for the matters to which the Community Investment Fund may provide funding, which include gambling research, dealing with social issues arising from gambling plus amounts for the Gambling Community Benefit Fund and other state-wide projects. It also provides for the Minister to have regard to the recommendations of the Gambling Community Benefit Committee in paying amounts for the benefit of the community.

*Clause 79* makes a minor technical amendment to section 323.

*Clause 80* makes a minor technical amendment to section 324.

*Clause 81* replaces section 327 to enable the commission or the chief executive to give written direction to a licensed monitoring operator, licensed major dealer, licensed secondary dealer, licensed service contractor, or other licensee about matters for which their licence is issued.

*Clause 82* makes a minor technical amendment to section 356.

*Clause 83* makes a minor technical amendment to section 362.

*Clause 84* inserts a heading for part 12 Division 4 and provides for certain gaming machine licences to lapse if gaming has not commenced by 13 December 2000. It also provides for certain approvals for increases in gaming machines to lapse by 1 September 2000, unless the commission is satisfied that there are good reasons to defer the lapsing. These provisions are designed to ensure that sites do not "bank" approvals and to ensure that all sites operate under the same regime. The clause also fixes the hours of gaming for existing licences and provides for the closing of the Charities and Rehabilitation Benefit Fund and the continuation of the membership of Gaming Machine Community Benefit Committee.

## **PART 5—AMENDMENT OF INTERACTIVE GAMBLING (PLAYER PROTECTION) ACT 1998**

*Clause 85* provides that part 5 amends the *Interactive Gambling (Player Protection) Act 1998*.

*Clause 86* amends section 3 to incorporate the overarching object of the Act. The overarching object is to ensure that on balance, the State and community benefit from interactive gambling. This is consistent with amendments to be included in all other gambling Acts. The original objects are restated and included within the overarching object.

*Clause 87* amends schedule 3 dictionary to provide a definition for the term interactive gambling.

## **PART 6—AMENDMENT OF KENO ACT 1996**

*Clause 88* provides that part 6 amends the *Keno Act 1996*.

*Clause 89* inserts section 1A which sets out the object of the Act. The object is to ensure that on balance, the State and community benefit from keno gambling. This is consistent with amendments to be included in all other gambling Acts.

*Clause 90* replaces section 113 to provide that a prescribed percentage of keno tax and keno licensing fees is to be paid into a fund established under a gaming Act.

*Clause 91* amends section 148 to provide that an operator or an employee must not misrepresent a cash advance to a person as another type of transaction where the operator or employee knows or ought to know the cash advance is intended to be used for taking part in a keno game. This will reinforce the power to deal with credit betting issues.

## **PART 7—AMENDMENT OF LIQUOR ACT 1992**

*Clause 92* provides that part 7 amends the *Liquor Act 1992*.

*Clause 93* makes a minor technical amendment to section 151.

**PART 8—AMENDMENT OF LOTTERIES ACT 1997**

*Clause 94* provides that part 8 amends the *Lotteries Act 1997*.

*Clause 95* inserts section 2A which sets out the object of the Act. The object of the Act is to ensure that on balance, the State and community benefit from approved lotteries. This is consistent with amendments to be included in all other gambling Acts.

*Clause 96* inserts section 99A to provide that a prescribed percentage of lottery tax is to be paid into a fund established under a gaming Act.

**PART 9—AMENDMENT OF WAGERING ACT 1998**

*Clause 97* provides that part 9 amends the *Wagering Act 1998*.

*Clause 98* inserts section 2A which sets out the object of the Act. The object of the Act is to ensure that, on balance, the State and community benefit from wagering. This is consistent with amendments to be included in all other gambling Acts.

*Clause 99* makes a minor technical amendment to section 136.

*Clause 100* makes a minor technical amendment to section 169.

*Clause 101* replaces section 209 to provide that an operator or an employee must not misrepresent a cash advance to a person as another type of transaction where the operator or employee knows or ought to know the cash advance is intended to be used for wagering. This will reinforce the power to deal with credit betting issues.

***SCHEDULE***

*Schedule* provides for minor amendments to be made to the *Gaming Machine Act 1991*.