

GAMBLING LEGISLATION AMENDMENT BILL 2004

EXPLANATORY NOTES

Short Title

Gambling Legislation Amendment Bill 2004

Objectives of the Legislation

The Bill will amend the seven main gambling Acts, principally to strengthen a number of existing provisions, further enhance the consistency of regulation across various Acts and to correct a number of technical and drafting matters.

The principal changes proposed in this Bill include:

- strengthening the power of the regulator regarding private sector involvement in clubs under the *Gaming Machine Act 1991*;
- amendments to provide for a consistent model across five gaming Acts (i.e. *Casino Control Act 1982*, *Gaming Machine Act 1991*, the *Interactive Gambling (Player Protection) Act 1998*, *Keno Act 1996* and the *Wagering Act 1998*), for the exclusion of problem gamblers from gaming venues (the *Charitable and Non-Profit Gaming Act 1999* and the *Lotteries Act 1997* are not included because the outlets through which such products are sold do not lend themselves to exclusions);
- amendments to provide for a consistent model across all seven gaming Acts in relation to show cause provisions regarding employees, and secrecy and confidentiality provisions;
- creating an offence under the *Casino Control Act 1982* for situations where an overpayment to patrons is made at a casino by employees of the casino operator and the patron does not return the amount;
- amending the *Charitable and Non-Profit Gaming Act 1999* to provide that a person involved in the conduct of a game must not

accept an entry form, for an amount or other consideration for a ticket, for the game from a minor if a prize for the game includes a gaming product. The existing provision already contains a similar prohibition with respect to a prize if it is liquor;

- requiring criminal history checks for candidates for appointment as Commissioners to the Queensland Gaming Commission under the *Gaming Machine Act 1991*, and in so doing create consistency with the provisions applicable to employees of the Queensland Office of Gaming Regulation;
- amending the *Interactive Gambling (Player Protection) Act 1998* and *Lotteries Act 1997* to allow the Golden Casket Lottery Corporation Limited to offer on-line (internet) registration to players of Lotto products; and
- various amendments to the *Wagering Act 1998* to address matters arising out of the enactment of the *Racing Act 2002* on 1 July 2003.

Reasons for the Legislation

Since 1996, there were considerable legislative changes to the regulation of legalised gaming in Queensland through the enactment of the *Keno Act 1996*, *Lotteries Act 1997*, *Wagering Act 1998*, *Interactive Gambling (Player Protection) Act 1998* and the *Charitable and Non-Profit Gaming Act 1999*.

Furthermore, the *Art Unions Act 1992* was repealed and replaced with the *Charitable and Non-Profit Gaming Act 1999*, plus substantial amendments to the *Gaming Machine Act 1991* occurred between 1997 and 1999, as a result of the Review of Queensland Gaming Machine Regulatory Arrangements: the White Paper. Additionally, significant legislative changes occurred in 2000 arising from the *Policy Direction for Gambling in Queensland*.

In 2003, significant amendments were made to the *Gaming Machine Act 1991* via the *Gaming Machine and Other Legislation Amendment Act 2003* to provide the legislative backing for the implementation of the scheme for the re-allocation of gaming machines in hotels within the state-wide cap on the number of gaming machines in hotels.

As a result of the significant legislative program for the regulation of gambling which has occurred over the past six years, the *Gambling Legislation Amendment Bill 2004* will amend the gaming Acts to ensure

greater consistency of regulation across the gaming Acts. It will also clarify and strengthen a number of issues within the Acts to ensure the ongoing probity of those conducting gambling operations and the ongoing integrity of the gambling activities being conducted.

Additionally, the Bill will implement strengthened provisions to minimise the potential for harm to arise from gambling in Queensland. This will be achieved by the insertion into the *Gaming Machine Act 1991*, *Casino Control Act 1982*, *Interactive Gambling (Player Protection) Act 1998*, *Wagering Act 1998* and the *Keno Act 1996* provisions explicitly dealing with exclusions requested by an individual or imposed by a gambling provider.

The current legislative provisions to exclude problem gamblers from gambling venues vary in their effectiveness and form across each of the gaming Acts. As a consequence, the Responsible Gambling Advisory Committee resolved to strengthen the legislation and address a number of inadequacies and ambiguities by creating greater uniformity across all gaming Acts and improving the specificity and operational viability of the existing provisions.

The key features of the proposed amendments are:

- A duty will be created for gambling providers to exclude the gambler when the gambler seeks an exclusion order.
- The amendments create a head of power in each Act but not a duty for venues to initiate exclusions (known as exclusion directions).
- Penalties would be provided for gambling providers, employees and customers not complying with the legislation.
- Exclusion orders or exclusion directions may not be revoked within one year.
- Exclusions will remain in place for five years unless revoked.
- When the venue imposes an exclusion direction or refuses an application for revocation of a exclusion direction, the individual may appeal to a Magistrates Court.

The Bill also addresses the involvement of private interests in licensed clubs by providing that before clubs enter into management agreements, they must advise the chief executive of the details of agreements. This will enable an assessment of the club's compliance with the legislation to be undertaken and for concerns to be raised.

The assessment will not take the form of an approval but instead affords a period of time (a qualifying period) to be set during which any concerns could be raised by the chief executive. Additionally, no lease or management agreement may be entered into until the expiration of the qualifying period.

Presently, a licensed club is required, pursuant to sections 67 and 92 of the *Gaming Machine Act 1991*, to advise the chief executive of changes to leases, agreements or arrangements entered into and to disclose particulars of such leases, agreements and arrangements including details of persons who can influence decisions relating to gaming or benefit from the conduct of gaming. The current provisions partly address this matter but do not specifically refer to management agreements or require notification to be given prior to their signing.

Consistent with the principles of accountability and transparency and in order to strengthen those provisions which prohibit the exercise of control by persons external to the club, a club's landlord, manager under a management agreement or creditor (and their associates) will be prohibited from seeking or holding a position on the club's management committee or board.

Estimated Cost for Government Implementation

The administration costs associated with the regulation of gaming will be reduced as a result of the minor technical and administrative changes to the legislation. The Department of Justice and Attorney-General raised no concerns in relation to increased costs associated with the new appeal rights for excluded problem gamblers.

Assessment of Bill's Consistency with Fundamental Legislative Principles

The Bill has been prepared taking into consideration fundamental legislative principles. The Office of the Queensland Parliamentary Counsel has identified three potential deviations from fundamental legislative principles, as described below.

The Bill removes a right of appeal conferred under the *Interactive Gambling (Player Protection) Act 1998*, *Keno Act 1996*, *Lotteries Act 1997*, and *Wagering Act 1998* for a licensed provider, keno licensee, lottery licensee or authority operator respectively to appeal to the Queensland Gaming Commission where an employee licence held by an employee or

key operator of the provider, licensee or operator is suspended or cancelled. The existing provision is an anomaly in that no such right of appeal is available under comparable legislation, and has never been exercised. This amendment therefore brings the appeal provisions into line with those of the *Casino Control Act 1982* and the *Gaming Machine Act 1991*. The removal of the right of appeal is balanced to some extent by new provisions requiring the chief executive to immediately give the licensed provider, keno licensee, lottery licensee or authority operator notice of the suspension or cancellation of an employee licence.

The Bill also inserts a definition of ‘criminal history’ in the *Keno Act 1996* and the *Lotteries Act 1997* which conflicts with the policy set out in the *Criminal Law (Rehabilitation of Offenders) Act 1986* in that it requires the disclosure of all convictions and charges.

This amendment brings the existing and new sections into line with those of other gaming Acts. The amendment enables the chief executive to ask the Commissioner of Police for a written report concerning a person’s criminal history. These provisions have provided high standards of probity for other forms of gaming. This amendment is necessary as it is fundamental that the chief executive retain the power to scrutinise persons involved or wishing to be involved with keno or lottery operations and gaming, or who are appointed or wishing to become appointed as an inspector, to prevent criminal involvement and ensure the integrity of keno and lottery operations. Until the chief executive is confident that there is no involvement of criminal elements, no person should be involved in conducting keno or lotteries, or appointed as an inspector. This power must therefore extend to the disclosure of all convictions and charges. *The Criminal Law (Rehabilitation of Offenders) Act 1986* contains many such exceptions to its policy in recognition of the need to ensure that all criminal convictions are known in respect of certain professions and industries.

Lastly, the Bill inserts a new section 341A to the *Gaming Machine Act 1991* which provides for a restriction on certain persons from membership of the management committee or board of category 2 licensees (clubs). The restriction is to apply to persons closely associated with the club as a lessor of the club’s premises, a creditor, or as the manager of the club’s premises or business either under a management agreement or otherwise.

Section 341A(3) allows the chief executive to authorise an ordinarily prohibited person to be on the management committee or board but no right of appeal is to exist where such an authorisation is withheld. However, an authorisation would be provided if it is in the best interest of the club and each authority issued is to be notified by way of the

Queensland Government Gazette. A right of appeal where the chief executive refuses to authorise a person as provided for in subsection (3) has not been provided as it is considered that few persons will be affected by this provision.

Moreover, section 434, which is inserted by clause 59, provides that section 341A does not apply to a person who already holds office as a member of a category 2 licensee's management committee or board, until the person's current term ends.

Consultation

Government consultation was undertaken with the Departments of the Premier and Cabinet; Tourism, Fair Trading and Wine Industry Development; State Development and Innovation; Employment and Training; Department of Housing (Racing Directorate); Local Government and Planning; Primary Industries and Fisheries; Justice and Attorney-General and Communities and Child Safety. The Queensland Police Service was consulted in relation to consequential amendments to the *Police Powers and Responsibilities Act 2002* arising from the enactment of the *Racing Act 2002*.

Consultations were also conducted with each of the industry participants and other stakeholders about relevant provisions. These stakeholders included the casinos, Clubs Queensland, Queensland Clubs Alliance, the Club Managers' Association, UNiTAB Limited, the Golden Casket Lottery Corporation Limited, Jupiters Gaming and the Queensland Gaming Commission. In addition, the Responsible Gambling Advisory Committee was consulted in relation to the provisions associated with the exclusion of problem gamblers.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

Clause 2 provides for the commencement of the Act by Proclamation.

PART 2—AMENDMENT OF CASINO CONTROL ACT 1982

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

Clause 4 amends section 14 by omitting the current section referring to ‘Secrecy’ and replaces it with a new provision dealing with the ‘Confidentiality of Information’, similar to the wording currently used in the *Lotteries Act 1997*, *Keno Act 1996* and *Wagering Act 1998*. This amendment seeks to explicitly identify the obligations of an inspector or an officer of the department when dealing with confidential information. The amendment permits the chief executive to disclose certain information to prescribed entities or individuals employed by the entity. It also defines confidential information as information, other than information that is publicly available, about a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act. An example of a prescribed entity may be a gambling regulator in another jurisdiction. In addition, the amendment increases the maximum penalty in the original provision from 200 penalty units or one year’s imprisonment to 200 penalty units or two years imprisonment to ensure consistency across all gaming Acts relating to confidentiality of information.

Clause 5 inserts a new divisional heading ‘Division 5 – Suspension and cancellation of casino key employee and casino employee licences, and other action by chief executive’. The replacement division modernises the provisions dealing with casino key employee and casino employee licences by making them consistent with disciplinary actions and procedures in other gaming Acts. In this regard, the new sections deal with the grounds for suspending or cancelling a licence, the chief executive’s duty to issue a show cause notice and to consider representations by employees in receipt of show cause notices. They also cover: immediate suspension; suspension or cancellation after the show cause process; ending the show cause process; the issue of censures to licensees; and directions to rectify and accompanying information notices. The provisions also allow the chief executive to cancel or reduce a period of suspension where appropriate.

Clause 6 amends section 74 by inserting a new subsection to provide that the chief executive may exclude the particular information mentioned in the subsection from a supplier’s control system submission, if satisfied the information is not necessary for the proper consideration of the submission. For example, if the control system submission were to require ten items of

information and the chief executive was satisfied that three items were not necessary, only the remaining seven items would be required as part of the submission.

Clause 7 amends sections 91A(e), (f) and (g) to correct references to provisions amended by clause 5. It also inserts a new section 91A(h) to allow a casino key employee or casino employee to appeal to the Gaming Commission where the chief executive has issued a direction to rectify.

Clause 8 replaces section 91G and provides that each party to an appeal to the Gaming Commission must be given written notice of the decision on the appeal. The new section is consistent with the provisions of the *Gaming Machine Act 1991*. The provision for appeals to the District Court under the replaced section is covered by the new Division 3 inserted by clause 9.

Clause 9 inserts a new divisional heading 'Division 2 – Appeals to Magistrates Court'. The new division provides for the lodgement, hearing and decision of an appeal to a Magistrates Court by a person who is given an exclusion direction by a casino operator or manager under the new section 93A(2), or whose application to revoke an exclusion direction is refused by a casino operator under the new section 99, against either decision. The Magistrates Court may confirm the decision, set aside the decision and substitute a new decision, or set aside the decision and return the matter to the casino operator or manager with directions the court considers appropriate.

Clause 9 also inserts a new divisional heading 'Division 3 – Appeals to District Court'. The new division provides that an appeal to the District Court against a decision of the Gaming Commission or a Magistrates Court may be made only on a question of law.

Clause 10 inserts a new subdivisional heading 'Subdivision 1 – Provisions about self-exclusion'. The new subdivision provides that a person is to be excluded from a casino at their own request. The new section 91N provides that a person may ask to be excluded from a casino by giving the casino operator a 'self-exclusion notice' accompanied by a recent photo of the person. The self-exclusion notice may relate to any or all of the casinos operated by the casino operator. The new section 91O provides that the casino operator would then be required to, as soon as practicable, give the person a 'self-exclusion order' and details of at least one problem gambling counselling service, and give a copy of the self-exclusion order and notice to the chief executive. The intention of this provision is that these actions are to be taken immediately upon receipt of the self-exclusion notice having regard to practical and commercial constraints, but in any case within a day or so. The maximum penalty for

failing to do so is 50 penalty units. The self-exclusion order would be in effect for five years from the date on which it is given to the person unless revoked under the new section 91P, which provides that a person who is given a self-exclusion order may revoke the order by giving the casino operator a 'revocation notice'. There is also provision for a 24 hour 'cooling off period' in which an excluded person may seek professional advice on the meaning of the exclusion and, if they change their mind, give the casino operator a revocation notice to take effect on that day. Otherwise, a revocation notice may not be submitted for at least one year, in which case the revocation takes effect 28 days after the notice is given to the casino operator. In either case, the casino operator must advise the chief executive as soon as practicable after being given a revocation notice.

Clause 11 amends section 92 to facilitate the new sections relating to exclusion of persons from a casino.

Clause 12 inserts a new section 93A to provide that if a casino operator or a casino manager believes on reasonable grounds that a person is a problem gambler, the operator or manager may give that person an 'exclusion direction' that prohibits the person from entering or remaining in the casino. The exclusion direction may relate to any or all of the casinos operated by the casino operator. The casino operator or manager must also give the person an information notice for the direction and, as soon as practicable, give a copy of the direction to the chief executive.

Clause 13 amends section 95 to include a reference to the new section 93A.

Clause 14 amends section 96 to clarify that the exclusion of persons for matters unrelated to problem gambling continues to remain in force unless and until revoked by the casino operator or the commissioner of police. It also requires these parties to notify the chief executive when revoking a direction order for such persons.

Clause 15 replaces sections 97 to 100. The new section 97 provides that the duration of an exclusion direction will be for five years from when it is given to a person, unless the decision to give the direction is set aside on appeal, the direction is revoked by the casino operator, or a decision by the casino operator to refuse to revoke the direction is set aside on appeal. The new section 98 provides that at least one year after a person is given an exclusion direction the person may apply to the casino operator for revocation of the direction. Such an application may be made only once per year and must be in the approved form, and be supported by enough information to enable the casino operator to decide the application. Under the new section 99 a casino operator who receives an application for

revocation must consider the application and make a decision on it within 28 days, otherwise it will be taken that the application is refused. The new section also provides that in considering the application, the casino operator may have regard to the supporting information and any other information the operator considers relevant. If a casino operator decides to revoke an exclusion direction, the operator must as soon as practicable give the applicant a notice of revocation, which takes effect from then, and give a copy of the notice to the chief executive. If the casino operator refuses the application, the operator must as soon as practicable give the applicant an information notice for that decision.

The new section 100 provides an offence for a person who is given a self-exclusion order, exclusion direction or a direction under section 92 or 94 to enter or remain in the casino described in the order or notice, with a maximum penalty of 40 penalty units. The new section 100A provides that a court that finds a defendant guilty of this offence, or accepts a guilty plea from a defendant for the offence, may postpone its decision on penalty provided that the defendant agrees to attend counselling. This counselling must, in the court's opinion, be beneficial in helping to overcome harmful behaviour related to problem gambling and extend for a period set by the court of not more than 12 months. The defendant must agree to allow the counsellor to provide information to the court about the defendant's participation in counselling and report any non-participation in counselling. The court's decision on penalty must be made as soon as practicable after: the period for counselling ends; the court receives advice that the defendant does not wish to continue counselling; or the court is advised by the counsellor that the defendant has failed to attend or participate satisfactorily in the counselling. In making its decision, the court must consider to what extent the defendant has made a genuine attempt to overcome harmful behaviour related to gambling.

Clause 15 also makes requirements on casino operators, their employees and agents of casino operators to enforce exclusions. The new section 100B provides that a casino operator, employee or agent who knows that a person has received a self-exclusion order, exclusion direction or direction under section 92 or 94 must take reasonable steps to prevent the person from entering or remaining in the casino. The maximum penalty for an offence against this section is 250 penalty units for a casino operator or 40 penalty units for another person. The new section also provides that the casino operator, employee or agent is permitted (but not required) to use necessary and reasonable force to prevent an excluded person from entering the casino, or to remove the person from the casino, provided that the force used is not likely to cause bodily harm to the person.

The new section 100C provides that the casino operator must keep a register of persons who are given a self-exclusion order, exclusion direction or direction under section 92 or 94, with a maximum penalty for not doing so of 40 penalty units. The register must be available for inspection by an inspector, and must be in an approved form. It is intended that the approved form will include provision for: the name of each excluded person; details of the self-exclusion order or details of the grounds for the exclusion direction or direction made under section 92 or 94; and details of any incident where the person had to be prevented from entering or was removed from the casino. It is also intended that because any self-exclusion order or exclusion direction may relate to one stated casino or all casinos operated by the casino operator and does not cease to have effect when another person becomes the casino operator, details of all existing self-exclusion orders and exclusion directions contained in the register must be provided to the new operator. This is to ensure that the new casino operator can record the details of the existing orders and directions in their register, without revealing the details of persons who were subject to expired orders or directions.

Finally, the new section 100D provides that if an excluded person contravenes the self-exclusion order or exclusion direction the casino operator must advise the chief executive of this as soon as practicable, with a maximum penalty for not doing so of 40 penalty units.

Clause 16 inserts a new section 110A to provide an offence for a person who knowingly obtains and keeps a benefit by playing a game in the casino in contravention of the rules or because of an error or oversight in the conduct of the game. For example, a person who knows they have been mistakenly overpaid by a casino dealer would commit an offence if they kept the overpayment with a maximum penalty of 200 penalty units.

Clause 17 inserts a new divisional heading 'Division 4 – Transitional provisions for Gambling Legislation Amendment Act 2004'. This new division ensures that show cause actions, immediate suspensions, directions to rectify, appeals to the Gaming Commission and exclusion directions under section 92 given prior to the amendments continue to have effect under the pre-amended provisions.

Clause 18 amends the Schedule (Dictionary) by replacing the definitions of 'conviction', 'information notice' and 'show cause notice' and adding new definitions to facilitate the sections inserted or amended in Part 2.

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

Clause 19 notes that Part 3 amends the *Charitable and Non-Profit Gaming Act 1999*.

Clause 20 updates a term in the provisions relating to the conduct of Calcutta sweeps on galloping horseraces to reflect the term in the *Racing Act 2002* that describes where such races can legally be held.

Clause 21 amends section 22 to provide that an eligible association may conduct a Category 2 or 3 game provided its general gaming records are kept at its principal office, its registered office (if it is a corporation), or another place with the approval of the chief executive.

Clause 22 amends section 56 to provide for the issue of a written notice of changed licence conditions. This amendment achieves consistency with other gaming Acts by making it a requirement for the chief executive to provide written notice of the changed conditions to the licensee.

Clause 23 inserts a new section 56A to provide that if a general licensee receives an information notice of changed licence conditions, the licensee must return the licence within seven days unless the licensee has a reasonable excuse for not returning the licence within the required time. The maximum penalty for failing to do so is 40 penalty units. The new section also provides that on receiving the licence, the chief executive must make the amendment and return the licence or issue a replacement licence.

Clause 24 amends section 74 to provide that under section 22 a person may set up the principal place of business outside of Queensland so long as the general gaming records are kept at a place approved by the chief executive.

Clause 25 amends section 100B by increasing the maximum penalty for offences about using or modifying regulated general gaming equipment from 40 to 200 penalty units.

Clause 26 amends section 110 regarding the participation of minors by prohibiting a person who conducts a game from accepting an entry by a minor if the prize for the game is or includes liquor or a gaming product. A gaming product under this section explicitly includes a product that a minor would be prohibited from obtaining in some way under another gaming Act i.e. a voucher or credit for playing a casino game, gaming machine or keno, a lucky envelope or promotional game ticket that is

scratched to reveal whether a prize has been won, a lottery ticket or a wagering or betting ticket.

Clause 27 inserts a new section 180A to provide that if the Gaming Commission decides an appeal, it must, as soon as practicable give each party notice of its decision and the reasons for the decision.

Clause 28 amends section 183 to define confidential information as information, other than information that is publicly available, about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act.

Clause 29 amends Schedule 2 (Dictionary) by extending the definition for 'conviction' to include circumstances where no conviction is recorded and ensure that this information is also captured within the more specific duty of confidentiality proposed in the amendments to Part 3.

PART 4—AMENDMENT OF GAMING MACHINE ACT 1991

Clause 30 notes that Part 4 amends the *Gaming Machine Act 1991*.

Clause 31 makes a minor technical amendment to section 8.

Clause 32 amends section 31 to provide that in the instance that a licensee decides to exclude a person, or refuses to revoke the exclusion of a person, from a licensed premises or gaming machine area the excluded person may appeal to a Magistrates Court.

Clause 33 amends section 32 to correct references to provisions amended by clause 44. It also inserts a new section 32(1A)(k) to allow a casino key employee or casino employee to appeal to the Gaming Commission where the chief executive has issued a direction to rectify.

Clause 34 makes a minor technical amendment to section 33 setting out the manner in which an appeal to a Magistrates Court is to commence.

Clause 35 makes a minor amendment to section 37 to provide that as soon as practicable after deciding an appeal, the appeal authority must give each party to the appeal written notice of its decision and the reasons for the decision.

Clause 36 amends section 53 to provide that the commissioner for police must, on request by the chief executive, give to the Gaming Commission a written report on the criminal history of a potential commissioner. This amendment is intended to achieve consistency with the provisions applicable to employees of the QOGR.

Clause 37 amends section 54 by omitting the current section referring to 'Secrecy' and replacing it with a new provision dealing with the 'Confidentiality of Information' similar to the wording currently used in the *Lotteries Act 1997*, *Keno Act 1996* and *Wagering Act 1998*. This amendment seeks to explicitly identify the obligations of a commissioner of the Gaming Commission, an inspector, an officer of the department or a licensed monitoring operator or their employee when dealing with confidential information. The amendment permits the chief executive to disclose certain information to prescribed entities or individuals employed by the entity. An example of a prescribed entity may be a gambling regulator in another jurisdiction. It also defines confidential information as information, other than information that is publicly available, about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act. In addition, the amendment increases the maximum penalty in the original provision from 200 penalty units or 1 year's imprisonment to 200 penalty units or 2 years imprisonment to ensure consistency across all gaming Acts relating to confidentiality of information.

Clause 38 amends section 67 to enable the chief executive to identify and monitor the involvement of the private sector in the operations of a licensed club such as through the provision of services under a management agreement for the licensee's business or operations, or through a lease over the club's premises. With regard to a management agreement, the new section will require a licensed club to advise the chief executive of the details, in certain cases, of any proposed agreement or any subsequent changes before the agreement is entered into or before the changes are made. This will provide an opportunity for the Queensland Office of Gaming Regulation to assess the agreements against the provisions of the Act. It is not proposed that the assessment take the form of an approval. Rather, the chief executive is to be given at least 28 days to complete the assessment and to raise any issues of concern. It is envisaged that the assessment will focus on those requirements under the Act relating to the need for payment for services to be reasonable and in the best interests of the club and for the club to remain in control of its affairs through its elected body and not be allowed to become a device for the

personal gains of others. Once the assessment has been completed and the parties advised, the decision to enter the agreement, either in its current or an amended form, rests with the club.

Management agreements or arrangements which are entered into between a club and an individual, who works only for that club and whose salary is based on a pay as you go income tax deduction system, will be exempted from this requirement.

A similar assessment process is to apply with respect to lease agreements over the club's premises. Changes to such agreements will not be able to be made by the parties until the chief executive is provided the opportunity to make an assessment against the provisions of the Act. Whilst all the terms and conditions of the lease agreement may be considered, of particular interest will be the reasonableness of the lease payment.

The assessment by the chief executive of management and lease agreements under the new section 67 is not intended to limit or otherwise affect the ability of the chief executive to enforce the general provisions of the legislation where such agreements are subsequently suspected of being non-compliant with its provisions. Such enforcement action would include the commencement of an action to show cause why the agreement should not be cancelled or why the gaming machine licence held by the club should not be cancelled or suspended.

Clause 39 makes a minor technical amendment to section 71 dealing with the issue of licences. The amendment clarifies what is expected when issuing a new licence.

Clause 40 inserts a new section 71A that provides for the replacement of a gaming machine licences when a gaming machine licence lapses and the number of approved gaming machines changes, or when the licensee receives a notice approving an increase or decrease in the approved number of gaming machines, or to the hours of gaming, for the licensee's premises. The new section ensures that the licence, and the prescribed fee, will be submitted to the chief executive within seven days and the licensee will receive the replacement licence as soon as practicable.

Clause 41 inserts a new section 79 to provide that if a person makes an application under the *Liquor Act 1992* for an approval that a part of a special facility premises be let or sublet, or a franchise or management rights of a similar nature be granted for a part of the special facility premises, on approval by the relevant chief executive and upon the issue of the new gaming machine licence, all operating authorities, if any, are

transferred to the new licence holder. This amendment clarifies the fate of operating authorities when there is a change of licensee for part of special facility premises.

Clause 42 omits section 88B as a result of clause 40 inserting the requirement for the issue of a replacement licence following approval of a decrease of the approved number of gaming machine numbers.

Clause 43 amends section 127 to achieve consistency across all gaming Acts by making it a requirement for the chief executive to provide written notice of changed conditions of licence.

Clause 44 inserts a new divisional heading ‘Division 6 – Suspension and cancellation of licences, and other action by chief executive’. The new division modernises the provisions dealing with licensed persons by making them consistent with disciplinary actions and procedures in other gaming Acts. In this regard, the new sections deal with the grounds for suspending or cancelling a licence, the chief executive’s duty to issue a show cause notice and to consider representations by employees in receipt of show cause notices. They also cover: immediate suspension; suspension or cancellation after the show cause process; ending the show cause process; the issue of censures to licensees; and directions to rectify and accompanying information notices. The provisions also allow the chief executive to cancel or reduce a period of suspension where appropriate.

Clause 45 omits sections 219 to 222 to make way for the new sections inserted by clause 44.

Clause 46 amends section 226(2)(a) to provide that the licensee’s register of gaming machines may note arrangements for the possession of gaming machines other than ownership or lease.

Clause 47 amends section 233 to create an offence with a maximum penalty of 200 penalty units if a licensed monitoring operator charges fees for basic monitoring services in excess of the prescribed fee.

Clause 48 replaces section 237(a) to create a duty for the rules ancillary to gaming to be conspicuously displayed and clearly legible in each gaming machine area. This amendment is needed to ensure that the rules are displayed where all players will see them, not just the people who go to a change booth or use an ATM, where the rules are currently required to be displayed. The amendment is also in line with the provisions relating to the display of gaming nominee’s information.

Clause 49 amends section 254(1) to provide that the licensee's nominee, instead of a gaming employee, is liable for a higher penalty for allowing a minor to play a gaming machine in a licensed premises.

Clause 50 inserts a new divisional heading 'Division 10 – Excluding or removing persons from licensed premises or gaming machine areas'. The new division replaces section 261 and provides that a person is to be excluded from a licensed premises or a gaming machine area on a licensed premises at their own request. The new section 261 provides that a person may ask to be excluded from a licensed premises or a gaming machine area by giving the licensee a 'self-exclusion notice'. The notice may relate to any or all of the premises covered by the licensee's licence. The new section 261A provides that the licensee would then be required to, as soon as practicable, give the person a 'self-exclusion order' and details of at least one problem gambling counselling service, and give a copy of the self-exclusion order and notice to the chief executive. The intention of this provision is that having regard to practical and commercial constraints, these actions are to be taken immediately upon receipt of the self-exclusion notice but in any case within a day or so. The maximum penalty for failing to do so is 50 penalty units. The self-exclusion order would be in effect for five years from the date on which it is given to the person unless revoked under the new section 261B, which provides that a person who is given a self-exclusion order may revoke the order by giving the licensee a 'revocation notice'. There is also provision for a 24 hour 'cooling off period' in which the excluded person may seek professional advice on the meaning of the exclusion and, if they change their mind, give the licensee a revocation notice to take effect on that day. Otherwise, a revocation notice may not be submitted for at least one year, in which case the revocation takes effect 28 days after the notice is given to the licensee. In either case, the licensee must advise the chief executive as soon as practicable after being given a revocation notice.

The new Division 10 also provides for the licensee to exclude a person from their licensed premises or a gaming machine area on their licensed premises. The new section 261C provides that if a licensee believes on reasonable grounds that a person is a problem gambler, the licensee may give that person an 'exclusion direction' that prohibits the person from entering or remaining in their premises or gaming machine area. The exclusion direction may relate to any or all of the premises covered by the licence. The licensee must also give the person an information notice for the direction and, as soon as practicable, give a copy of the direction to the chief executive. The new section 261D provides that the duration of an exclusion direction will be for five years from when it is given to a person,

unless the decision to give the direction is set aside on appeal, the direction is revoked by the licensee, or a decision by the licensee to refuse to revoke the direction is set aside on appeal. The new section 261E provides that at least one year after a person is given an exclusion direction the person may apply to the licensee for revocation of the direction. Such an application may be made only once per year and must be in the approved form, and be supported by enough information to enable the licensee to decide the application. Under the new section 261F a licensee who receives an application for revocation must consider the application and make a decision on it within 28 days, otherwise it will be taken that the application is refused. The new section also provides that in considering the application, the licensee may have regard to the supporting information and any other information the licensee considers relevant. If a licensee decides to revoke an exclusion direction, the licensee must as soon as practicable give the applicant a notice of revocation, which takes effect from then, and give a copy of the notice to the chief executive. If the licensee refuses the application, the licensee must as soon as practicable give the applicant an information notice for that decision.

Clause 50 also inserts a new section 261G that provides an offence for a person who is given a self-exclusion order or an exclusion direction to enter or remain in the licensed premises or gaming machine area described in the order or direction, with a maximum penalty of 40 penalty units. The new section 261H provides that a court that finds a defendant guilty of this offence, or accepts a guilty plea from a defendant for the offence, may postpone its decision on penalty provided that the defendant agrees to attend counselling. This counselling must, in the courts opinion, be beneficial in helping to overcome harmful behaviour related to problem gambling and extend for a period set by the court of not more than 12 months. The defendant must agree to allow the counsellor to provide information to the court about the defendant's participation in counselling and report any non-participation in counselling. The court's decision on penalty must be made as soon as practicable after: the period for counselling ends; the court receives advice that the defendant does not wish to continue counselling; or the court is advised by the counsellor that the defendant has failed to attend or participate satisfactorily in the counselling. In making its decision, the court must consider to what extent the defendant has made a genuine attempt to overcome harmful behaviour related to gambling.

Clause 50 also makes requirements on the licensee and their employees to enforce exclusions. The new section 261I provides that a licensee or their employee who knows that a person has received a self-exclusion order

or exclusion direction must take reasonable steps to prevent the person from entering or remaining in the licensed premises or gaming machine area. The maximum penalty for an offence against this section is 250 penalty units for a licensee and 40 penalty units for an employee of the licensee. The new section also provides that the licensee or employee is permitted (but not required) to use necessary and reasonable force to prevent an excluded person from entering the licensed premises or gambling area, or to remove the person from the premises or gambling area, provided that the force used is not likely to cause bodily harm to the person.

The new section 261J provides that the licensee must keep a register of persons who are given a self-exclusion order or exclusion direction, with a maximum penalty for not doing so of 40 penalty units. The register must be available for inspection by an inspector, and must be in an approved form. It is intended that the approved form will include provision for: the name of each excluded person; details of the self-exclusion order or details of the grounds for the exclusion direction; and details of any incident where the person had to be prevented from entering or was removed from the licensed premises or gambling area. It is also intended that because any self-exclusion order or exclusion direction may relate to one stated premises or all premises to which the gaming machine licence relates and does not cease to have effect when another person becomes the licensee, details of all existing self-exclusion orders and exclusion directions contained in the register must be provided to the new licensee. This is to ensure that the new licensee can record the details of the existing orders and directions in their register, without revealing the details of persons who were subject to expired orders or directions.

Finally, the new section 261K provides that if an excluded person contravenes the self-exclusion order or exclusion direction the licensee must advise the chief executive of this as soon as practicable, with a maximum penalty for not doing so of 40 penalty units.

Clause 51 amends section 262 and constrains the amount of force that may be used to remove or prevent an excluded person from entering a licensed premises to force that is not likely to cause bodily harm to the person. The provision relates to exclusions arising from behaviour other than problem gambling, such as breaching the rules of gambling, damaging a gaming machine or other offensive behaviour.

Clause 52 amends section 265 to remove some redundant provisions.

Clause 53 amends section 265A to explicitly provide that a licensed monitoring operator or approved financier may sell or supply gaming machines on the written approval of the chief executive.

Clause 54 inserts a new section 267A to provide that an approved evaluator may obtain and be in possession of gaming machines, linked jackpot and restricted components. The new section also provides that an approved evaluator must not use premises for the testing of designated equipment unless the chief executive has approved the premises for that purpose. The maximum penalty for an offence against these provisions is 200 penalty units. This amendment clarifies various matters associated with the testing of designated equipment by approved evaluators.

Clause 55 amends section 287(9) to provide that where a licensed monitoring operator continues to conduct monitoring operations, but the operator ceases to operate a linked jackpot arrangement for some reason, the chief executive may make directions for distribution of any amounts remaining in the approved trust account for the arrangement. This amendment is necessary as the existing section is considered to be too restrictive in the case of this eventuality.

Clause 56 amends section 305 to provide that a licensed club must give to the chief executive, along with the annual lodgement of the auditor's report and the club's financial statements and annual report, a statement of benefits provided by the club to certain persons. In future, the specific monetary payments or the monetary value of benefits provided to persons under a lease or management agreement, a member of the club's elected management committee or board or the club's secretary or manager will need to be reported separately to the chief executive. This will enable an assessment to be made by the chief executive as to the reasonableness of such payments and, where applicable, of the involvement of private interests in the operations of clubs. Benefits given during a financial year which are approved by the club's management committee or board and which do not amount to a sum to be prescribed will not be required to be reported. Allowing for a prescribed rather than a set amount will provide the appropriate flexibility to adjust the amount to reflect appropriate industry standards and practices whilst also avoiding unnecessary administrative tasks for clubs in recording benefits of a minor nature. It is envisaged that the prescribed amount will initially be set at \$1000 per annum.

Clause 57 amends section 317(1) to reinstate the offence, with a maximum penalty of 200 penalty units, for failure to pay the monthly gaming machine tax and other payment before on the due date each month.

This offence is required in addition to the existing offence under section 371(3) for failure to pay an amount as directed by instalments.

Clause 58 inserts a new section 341A, the purpose of which includes the further regulation of the private sector in the operations and affairs of a licensed club. The section provides that a lessor of the club's premises, a person who has entered into a management agreement with the club, a creditor of the club or the club's manager is prohibited from holding office as a member of the club's committee or board. This section therefore addresses the likelihood that a person's financial or business interests may place them in a position of conflict when performing their functions as an executive of the club. However, a person may be exempted from this provision by the chief executive where the chief executive is satisfied that it would be in the best interests of the club to do so. Whilst natural justice would dictate that each application for exemption would be treated on its merits, it is anticipated that guidelines will eventually be issued by the chief executive to clarify the circumstances that may be taken into account when considering any such application. The provision may also have the undesirable effect of prohibiting persons who are nominated for election by a related entity in accordance with the club's rules from taking their place on the executive. Some examples include RSL and football clubs whose parent body for instance could be the landlord or a creditor. Accordingly, the section provides a general exemption in these circumstances thereby avoiding the necessity for the approval of the chief executive to be obtained.

Whilst some impact may be felt initially, it is expected that this provision will affect few persons in the longer term. Accordingly, there will be no right of appeal where the chief executive refuses to exempt a person from the prohibition. Transitional provisions will enable persons affected by this provision to remain on the club's committee or board until their term of appointment ends.

Clause 59 inserts a new divisional heading 'Division 9 – Provisions for Gambling Legislation Amendment Act 2004'. This new division ensures that show cause actions, immediate suspensions, directions to rectify and appeals to the Gaming Commission that commenced prior to the amendment continue to have effect under the pre-amended provisions. In addition, the restrictions on membership of the management committee or board of a category 2 licensee do not apply to members at the time of the amendment until the end of their current term of membership.

Clause 60 amends the Schedule (Dictionary) by replacing the definitions of 'accepted representations', 'conviction', 'decision maker', 'employ',

‘show cause notice’ and ‘show cause period’ and adding new definitions to facilitate the sections inserted or amended in Part 4.

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

Clause 61 notes that Part 5 amends the *Interactive Gambling (Player Protection) Act 1998*.

Clause 62 amends section 6 by excluding a lottery other than an instant lottery (including Instant Scratch-Its) from the ambit of the definition of an interactive game. This provision will allow the lottery licensee to accept entries in Wednesday Gold Lotto, Saturday Gold Lotto, Power Ball, Oz Lotto, Pools and Super 66 via telecommunications device or the Internet but not to conduct instant lotteries and lotteries that have regular draws (for example keno type lotteries) on the Internet.

Clause 63 amends section 74 to provide that if the chief executive decides to change the conditions of a key person licence, then the chief executive must immediately give the licensee written notice of the changed conditions and an information notice about the decision.

Clause 64 inserts a new divisional heading ‘Division 3 – Suspension and cancellation of key person licences, and other action by chief executive’. The replacement division modernises the provisions dealing with key person licences by making them consistent with disciplinary actions and procedures in other gaming Acts. In this regard, the new sections deal with the grounds for suspending or cancelling a licence, the chief executive’s duty to issue a show cause notice and to consider representations by employees in receipt of show cause notices. They also cover: immediate suspension; suspension or cancellation after the show cause process; ending the show cause process; the issue of censures to licensees; and directions to rectify and accompanying information notices. The provisions also allow the chief executive to cancel or reduce a period of suspension where appropriate.

Clause 65 amends section 128 by inserting a new subsection to provide that the chief executive may exclude the particular information mentioned in the subsection from a supplier’s control system submission, if satisfied the information is not necessary for the proper consideration of the

submission. For example, if the control system submission were to require ten items of information and the chief executive was satisfied that only three items were necessary, then the remaining seven would not be required as part of the submission.

Clause 66 inserts a new divisional heading 'Division 5A – Excluding persons from participating in authorised games as players'. The new division replaces section 137 and provides that a person who is registered with a licensed provider as a player will be prohibited from participating as a player in authorised games conducted by the licensed provider at their own request. The new section 137 provides that a person who is registered with a licensed provider as a player may ask to be prohibited from participating as a player in authorised games by giving the licensed provider a 'self-exclusion notice'. The new section 137A provides that the licensed provider would then be required to, as soon as practicable, give the person a 'self-exclusion order' and details of at least one problem gambling counselling service, and give a copy of the self-exclusion order and notice to the chief executive. The intention of this provision is that these actions are to be taken immediately upon receipt of the notice having regard to practical and commercial constraints, but in any case within a day or so. The maximum penalty for failing to do so is 50 penalty units. The self-exclusion order would be in effect for five years from the date on which it is given to the person unless revoked under the new section 137B, which provides that a person who is given a self-exclusion order may revoke the order by giving the licensed provider a 'revocation notice'. The excluded person has a 24 hour 'cooling off period' in which they may seek professional advice on the meaning of the exclusion and, if they change their mind, give the licensed provider a revocation notice to take effect on that day. Otherwise, a revocation notice may not be submitted for at least one year, in which case the revocation takes effect 28 days after the notice is given to the licensed provider. In either case, the licensed provider must advise the chief executive as soon as practicable after being given a revocation notice.

The new Division 5A also provides that a licensed provider may prohibit a person from participating as a player in authorised games. The new section 137C provides that if a licensed provider believes on reasonable grounds that a person who is registered with the licensed provider as a player is a problem gambler, the licensed provider may give that person an 'exclusion direction' prohibiting the person from participating as a player in authorised games conducted by the licensed provider. The licensed provider must also give the person an information notice for the direction and, as soon as practicable, give a copy of the direction to the chief

executive. The new section 137D provides that the duration of an exclusion direction will be for five years from when it is given to a person, unless the decision to give the direction is set aside on appeal, the direction is revoked by the licensed provider, or a decision by the licensed provider to refuse to revoke the direction is set aside on appeal. The new section 137E provides that at least one year after a person is given an exclusion direction the person may apply to the licensed provider for revocation of the direction. Such an application may be made only once per year and must be in the approved form, and be supported by enough information to enable the licensed provider to decide the application. Under the new section 137F a licensed provider who receives an application for revocation must consider the application and make a decision on it within 28 days, otherwise it will be taken that the application is refused. The new section also provides that in considering the application, the licensed provider may have regard to the supporting information and any other information the licensed provider considers relevant. If a licensed provider decides to revoke an exclusion direction, the licensed provider must as soon as practicable give the applicant a notice of revocation, which takes effect from then, and give a copy of the notice to the chief executive. If the licensed provider refuses the application, the licensed provider must as soon as practicable give the applicant an information notice for that decision.

Clause 66 also inserts a new section 137G that provides an offence for a person who is given a self-exclusion order or an exclusion direction to participate as a player in authorised games conducted by the licensed provider, with a maximum penalty of 40 penalty units. The new section 137H provides that if a court finds a defendant guilty of this offence, or accepts a guilty plea from a defendant for the offence, it may postpone its decision on penalty provided that the defendant agrees to attend counselling. This counselling must, in the court's opinion, be beneficial in helping to overcome harmful behaviour related to problem gambling and extend for a period set by the court of not more than 12 months. The defendant must agree to allow the counsellor to provide information to the court about the defendant's participation in counselling and report any non-participation in counselling. The court's decision on penalty must be made as soon as practicable after: the period for counselling ends; the court receives advice that the defendant does not wish to continue counselling; or the court is advised by the counsellor that the defendant has failed to attend or participate satisfactorily in the counselling. In making its decision, the court must consider to what extent the defendant has made a genuine attempt to overcome harmful behaviour related to gambling.

Clause 66 also makes requirements on the licensed provider and their employees to enforce exclusions. The new section 137I provides that a licensed provider or their employee who knows that a person has received a self-exclusion order or exclusion direction must take reasonable steps to prevent the person from participating as a player in the authorised games. The maximum penalty for an offence against this section is 250 penalty units for a licensed provider and 40 penalty units for another person.

The new section 137J provides that the licensed provider must keep a register of persons who are given a self-exclusion order or exclusion direction, with a maximum penalty for not doing so of 40 penalty units. The register must be available for inspection by an inspector, and must be in an approved form. It is intended the approved form will include provision for: the name of each excluded person; details of the self-exclusion order or details of the grounds for the exclusion direction; and details of any incident where the person had to be prevented from participating as a player in the authorised games. It is also intended that because any self-exclusion order or exclusion direction does not cease to have effect when another person becomes the licensed provider, details of all existing self-exclusion orders and exclusion directions contained in the register must be provided to the new licensed provider. This is to ensure that the new licensed provider can record the details of the existing orders and directions in their register, without revealing the details of persons who were subject to expired orders or directions.

Finally, the new section 137K provides that if an excluded person contravenes the self-exclusion order or exclusion direction the licensee must advise the chief executive of this as soon as practicable, with a maximum penalty for not doing so of 40 penalty units.

Clause 67 amends section 163 by increasing the maximum penalty for use of regulated interactive gambling equipment that has not been approved by the chief executive or modifying approved interactive gambling equipment without approval from 40 penalty units to 200 penalty units.

Clause 68 amends section 253 to make way for the appeals mechanism of clause 69.

Clause 69 amends section 259 by omitting the reference to the District Court to make way for a new section 259 to be inserted in a new Division 2. Clause 69 also inserts a new divisional heading 'Division 2 – Appeals to Magistrates Court'. The new section 259 provides that a person excluded by a licensed provider from participating in an authorised game may appeal the direction to a Magistrates Court. The new section 259A sets out how the appeal is to commence and sets a timeframe of 28 days after the person

is given the information notice for the decision for the person to lodge the appeal to a Magistrates Court. The new section 259B gives the Magistrates Court the power to grant a stay of the decision to secure the effectiveness of the appeal. The new section 259C sets out how an appeal is to be heard by the Magistrates Court. As the Magistrates Court is an appellent body for the purposes of this Part, the Magistrates Court is not bound by the rules of evidence and must comply with the principles of natural justice. The new section 259D outlines the powers on appeal, of the Magistrates Court. This new section provides that in deciding an appeal, the Magistrates Court may (i) confirm the decision appealed against, (ii) set aside the decision and substitute it for another decision or (iii) set aside the decision and return the matter to the licensed provider with directions the court considers necessary. The new Division 3 inserts a new section 259E which replaces the former section 259 dealing with appeals to the District Court against a decision of the Queensland Gaming Commission or a Magistrates Court under Part 10, but only on a question of law.

Clause 70 amends section 260 to define confidential information as information, other than information that is publicly available, about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act.

Clause 71 inserts a new part heading 'Part 12 - Transitional Provisions for Gambling Legislation Amendment Act 2004'. This new part ensures that show cause actions, directions to rectify and appeals to the Queensland Gaming Commission that commenced prior to the amendment continue to have effect under the pre-amended provisions.

Clause 72 amends schedule 2, part 2, entry for section 82 to insert new references for sections amended by clause 64 to allow a key person licensee to appeal to the Queensland Gaming Commission where the chief executive has immediately suspended a key person licence or a licensee has been censured or directed to rectify. This also corrects the reference to allow the key person licensee to appeal to the Queensland Gaming Commission where the licence is suspended or cancelled.

Clause 72 also omits the provision for a licensed provider to appeal to the Queensland Gaming Commission where a key person licence held by an employee of the licensed provider is suspended or cancelled. The existing provision is an anomaly that has never been exercised, and this amendment brings the appeal provisions into line with those of the *Casino Control Act 1982* and the *Gaming Machine Act 1991*. The interests of the licensed provider are still protected by the provisions of new sections 80

and 81 that require the chief executive to immediately give the licensed provider notice of the suspension or cancellation of a key person licence.

Clause 73 amends the schedule (Dictionary) by replacing the definitions of ‘accepted representations’, ‘information notice’, ‘show cause notice’ and ‘show cause period’, and inserting new definitions, to facilitate the sections inserted or amended in Part 5.

PART 6—AMENDMENT OF KENO ACT 1996

Clause 74 notes that this part amends the *Keno Act 1996*.

Clause 75 amends section 58 to provide that if the chief executive decides to change the conditions of a keno employee licence, then the chief executive must immediately issue written notice of the changed conditions and an information notice about the decision.

Clause 76 inserts a new divisional heading ‘Division 5 – Suspension and cancellation of keno employee licences, and other action by chief executive’. The replacement division modernises the provisions dealing with key employee licences by making them consistent with disciplinary actions and procedures in other gaming Acts. In this regard, the new sections deal with the grounds for suspending or cancelling a licence, the chief executive’s duty to issue a show cause notice and to consider representations by employees in receipt of show cause notices. They also cover: immediate suspension; suspension or cancellation after the show cause process; ending the show cause process; the issue of censures to licensees; and directions to rectify and accompanying information notices. The provisions also allow the chief executive to cancel or reduce a period of suspension where appropriate.

Clause 77 amends section 118 by inserting a new subsection to provide that the chief executive may exclude the particular information mentioned in the subsection from a supplier’s control system submission, if satisfied the information is not necessary for the proper consideration of the submission. For example, if the control system submission were to require ten items of information and the chief executive was satisfied that only three were necessary, the remaining seven would not be required as part of the submission.

Clause 78 amends section 146 by increasing the maximum penalty for use of regulated keno equipment that has not been approved by the chief executive or modifying approved keno equipment without approval from 40 penalty units to 200 penalty units.

Clause 79 omits section 153 which provides for the banning of excessive gamblers from playing keno. This omission is to make way for the insertion of a new part dealing with exclusions in a new Division 2A.

Clause 80 inserts a new divisional heading ‘Division 2A – Excluding persons from approved places of operation or taking part in keno gaming’. The new division provides that a person is to be excluded from playing keno at their own request. The new section 154A provides that a person may ask to be prohibited from taking part in keno gaming at, or entering or remaining in, an agent’s approved place of operation by giving the appointed agent a ‘self-exclusion notice’. The notice may relate to any or all of the agent’s approved places of operation. The new section 154B provides that the agent would then be required to, as soon as practicable, give the person a ‘self-exclusion order’ and details of at least one problem gambling counselling service, and give a copy of the self-exclusion order and notice to the chief executive. The intention of this provision is that these actions are to be taken immediately upon receipt of the notice having regard to practical and commercial constraints, but in any case within a day or so. The maximum penalty for failing to do so is 50 penalty units. The self-exclusion order would be in effect for five years from the date on which it is given to the person unless revoked under the new section 154C which provides that a person who is given a self-exclusion order may revoke the order by giving the appointed agent a ‘revocation notice’. There is also provision for a 24 hour ‘cooling off period’ in which an excluded person may seek professional advice on the meaning of the exclusion and, if they change their mind, give the agent a revocation notice to take effect on that day. Otherwise, a revocation notice may not be submitted for at least one year, in which case the revocation takes effect 28 days after the notice is given to the licensee. In either case, the appointed agent must advise the chief executive as soon as practicable after being given a revocation notice.

The new Division 2A also provides for the appointed agent to prohibit a person from taking part in keno gaming at, or entering or remaining in, the agent’s approved place of operation. The new section 154D provides that if an appointed agent believes on reasonable grounds that a person is a problem gambler, the agent may give that person an ‘exclusion direction’ that prohibits the person from taking part in keno gaming at, or entering or remaining in, the agent’s approved place of operation. The exclusion

direction may relate to any or all of the agent's approved places of operation. The appointed agent must also give the person an information notice for the direction and, as soon as practicable, give a copy of the direction to the chief executive. The new section 154E provides that the duration of an exclusion direction will be for five years from when it is given to a person, unless the decision to give the direction is set aside on appeal, the direction is revoked by the appointed agent, or a decision by the agent to refuse to revoke the direction is set aside on appeal. The new section 154F provides that at least one year after a person is given an exclusion direction the person may apply to the appointed agent for revocation of the direction. Such an application may be made only once per year and must be in the approved form, and supported by enough information to enable the agent to decide the application. Under the new section 154G an appointed agent who receives an application for revocation must consider the application and make a decision on it within 28 days, otherwise it will be taken that the application is refused. The new section also provides that in considering the application, the agent may have regard to the supporting information and any other information the agent considers relevant. If an appointed agent decides to revoke an exclusion direction, the agent must as soon as practicable give the applicant a notice of revocation, which takes effect from then, and give a copy of the notice to the chief executive. If the appointed agent refuses the application, the agent must as soon as practicable give the applicant an information notice for that decision.

Clause 80 also inserts a new section 154H that provides an offence for a person who is given a self-exclusion order or an exclusion direction to take part in keno gaming at, or enter or remain in, the agent's approved place of operation described in the order or direction, with a maximum penalty of 40 penalty units. The new section 154I provides that a court that finds a defendant guilty of this offence, or accepts a guilty plea from a defendant for the offence, may postpone its decision on penalty provided that the defendant agrees to attend counselling. This counselling must, in the court's opinion, be beneficial in helping to overcome harmful behaviour related to problem gambling and extend for a period set by the court of not more than 12 months. The person must agree to allow the counsellor to provide information to the court about the defendant's participation in counselling and report any non-participation in counselling. The court's decision on penalty must be made as soon as practicable after: the period for counselling ends; the court receives advice that the defendant does not wish to continue counselling; or the court is advised by the counsellor that the defendant has failed to attend or participate satisfactorily in the counselling. In making its decision, the court must consider to what extent

the defendant has made a genuine attempt to overcome harmful behaviour related to gambling.

Clause 80 also makes requirements on the appointed agent and their employees to enforce exclusions. The new section 154J provides that an agent or agent's employee who knows that a person has received a self-exclusion order or exclusion direction must take reasonable steps to prevent the person from taking part in keno gaming at, or entering or remaining in, the agent's approved place of operation. The maximum penalty for an offence against this section is 250 penalty units for an appointed agent and 40 penalty units for another person. The new section also provides that the appointed agent or employee is permitted (but not required) to use necessary and reasonable force to prevent an excluded person from taking part in keno gaming or entering the approved place of operation, or to remove the person from the approved place of operation, provided that the force used is not likely to cause bodily harm to the person.

The new section 154K provides that the appointed agent must keep a register of persons who are given a self-exclusion order or exclusion direction, with a maximum penalty for not doing so of 40 penalty units. The register must be available for inspection by an inspector, and must be in an approved form. It is intended the approved form will include provision for: the name of each excluded person; details of the self-exclusion order or details of the grounds for the exclusion direction; and details of any incident where the person had to be prevented from taking part in keno gaming at, or entering or remaining in, the agent's approved place of operation. It is also intended that because any self-exclusion order or exclusion direction may relate to one stated approved place of operation or all approved places of operation of the agent and does not cease to have effect when another person becomes the agent, details of all existing self-exclusion orders and exclusion directions contained in the register must be provided to the new agent. This is to ensure that the new agent can record the details of the existing orders and directions in their register, without revealing the details of persons who were subject to expired orders or directions.

Finally, the new section 154L provides that if an excluded person contravenes the self-exclusion order or exclusion direction the appointed agent must advise the chief executive of this as soon as practicable, with a maximum penalty for not doing so of 40 penalty units.

Clause 81 inserts a new divisional heading 'Division 1 – Inspectors'. This new division replaces sections 167-171 and provides that persons may be appointed under this Act as an inspector. This amendment provides for

more flexibility and allows the chief executive to appoint a person to be an inspector for the sole purposes of this Act, rather than relying on their appointment under another gaming Act. The new division also provides for the issue of an identity card to each appointed inspector and requires that the inspector must produce or display their identity card when entering a keno gaming place when an approved keno game is being conducted or the place is open for the conduct of an approved keno game, or otherwise open. However, the inspector need not produce or display their identity card when entering a public place or the land around premises to ask its occupier for consent to enter the premises. New sections also provide for the actions required when an inspector leaves office or resigns, and investigation by the chief executive of a person's suitability to be or remain an inspector, including obtaining a criminal history of the person. The provisions of this new division are consistent with the provisions of other gaming Acts.

Clause 82 omits section 239 to make way for the appeals mechanism provided by clause 83. The new section 239 provides that the Gaming Commission must as soon as practicable, after a decision, provide each party to the appeal written notice of the decision and its reasons for the decision.

Clause 83 inserts a new divisional heading 'Division 2 – Appeals to Magistrates Court'. The new division provides an appeal mechanism to a Magistrates Court against a decision by a keno operator to exclude a person from the premises or to participate in keno gaming. A new section 239A sets out who may appeal to a Magistrates Court. A new section 239B sets out how the appeal is to start and sets a timeframe of 28 days after the person is given the information notice of the decision, for the person to lodge the appeal to a Magistrates Court. A new section 239C gives the Magistrates Court the power to grant a stay of the decision to secure the effectiveness of the appeal. The Magistrates Court may give the stay with conditions considered appropriate by the court and may also fix a period for the stay to operate. A new section 239D sets out how an appeal is to be heard by the Magistrates Court and provides that the Magistrates Court is not bound by the rules of evidence and must comply with the principles of natural justice. The new section 239E outlines the powers of the Magistrates Court on appeal. This new section provides that in deciding an appeal, the Magistrates Court may (i) confirm the decision appealed against, (ii) set aside the decision and substitute it for another decision or (iii) set aside the decision and return the matter to the licensed provider with directions the court considers necessary. A new section 239F is

inserted dealing with appeals to the District Court against a decision of a Magistrates Court on a question of law.

Clause 84 amends section 240 to define confidential information as information, other than information that is publicly available, about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act.

Clause 85 inserts a new divisional heading 'Division 2 – Transitional provisions for Gambling Legislation Amendment Act 2004'. This new division ensures that show cause actions, directions to rectify, immediate suspensions and appeals to the Gaming Commission started prior to the amendments continue to have effect under the pre-amended provisions

Clause 86 amends schedule 2, part 2, entry for section 66 to insert new references for sections amended by clause 76 to allow a key employee licensee to appeal to the Gaming Commission where the chief executive has immediately suspended a key person licence or a licensee has been censured or directed to rectify. This also corrects the reference to allow the key employee licensee to appeal to the Gaming Commission where the licence is suspended or cancelled.

Clause 86 also omits the provision for a keno licensee to appeal to the Gaming Commission where a keno employee licence held by a keno employee or key operator of the keno licensee is suspended or cancelled. The existing provision is an anomaly that has never been exercised by a keno licensee, and this amendment brings the appeal provisions into line with those of the *Casino Control Act 1982* and the *Gaming Machine Act 1991*. The interests of the keno licensee are still protected by the provisions of new sections 64 and 65 that require the chief executive to immediately give the keno licensee notice of the suspension or cancellation of a keno employee licence.

Clause 87 amends schedule 4 (Dictionary) by replacing the definitions of 'accepted representations', 'identity card', 'information notice', 'inspector', 'proposed action', 'show cause notice' and 'show cause period', and adding new definitions to facilitate the sections inserted or amended in Part 6. The inserted definition of 'criminal history' means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986* and provides for disclosure of all convictions and charges, despite sections 5 and 6 of that Act. The power of the chief executive to scrutinise persons involved or wishing to be involved with keno operations is fundamental to preventing criminal involvement and ensuring the integrity of keno operations. It is therefore necessary to

ensure that until the chief executive can be confident there is no involvement of criminal elements, no person should be involved in the conduct of keno or appointed as an inspector.

Although the Bill inserts a definition of criminal history which conflicts with the policy set out in the *Criminal Law (Rehabilitation of Offenders Act) 1986*, this amendment brings the existing and new sections into line with those of other gaming Acts. These amendments enable the chief executive to ask the commissioner of the police service for a written report of a person's criminal history. These provisions have provided high standards of probity for other forms of gaming. This provision is necessary as it is fundamental that the chief executive retain the power to scrutinise persons involved or wishing to be involved with keno operations, or who are appointed or wishing to become appointed as an inspector, to prevent criminal involvement and ensure the integrity of keno operations and gaming. Until the chief executive is confident that there is no involvement of criminal elements, no person should be involved in the conduct of keno or appointed as an inspector. This power must therefore extend to the disclosure of all convictions and charges.

PART 7—AMENDMENT OF LOTTERIES ACT 1997

Clause 88 notes that Part 7 amends the *Lotteries Act 1997*.

Clause 89 amends section 56 to provide that the chief executive decides to change the conditions of a key person licence, the chief executive must immediately give written notice of the changed conditions and an information notice about the decision.

Clause 90 inserts a new divisional heading 'Division 4 – Suspension and cancellation of key person licences, and other action by chief executive'. The replacement division modernises the provisions dealing with key person licences by making them consistent with disciplinary actions and procedures in other gaming Acts. In this regard, the new sections deal with the grounds for suspending or cancelling a licence, the chief executive's duty to issue a show cause notice and to consider representations by employees in receipt of show cause notices. They also cover: immediate suspension; suspension or cancellation after the show cause process; ending the show cause process; the issue of censures to licensees; and directions to rectify and accompanying information notices. The

provisions also allow the chief executive to cancel or reduce a period of suspension where appropriate._

Clause 91 amends section 101 by inserting a new subsection to provide that the chief executive may exclude the particular information mentioned in the subsection from a supplier's control system submission, if satisfied the information is not necessary for the proper consideration of the submission. For example, if the control system submission were to require ten items of information and the chief executive was satisfied that only three were necessary, the remaining seven would not be required as part of the submission.

Clause 92 inserts a new section 125A that facilitates the amendment to the *Interactive Gambling (Player Protection) Act 1998* exempting the sale of certain lottery products such as Wednesday Gold Lotto, Saturday Gold Lotto, Power Ball, Oz Lotto, Pools and Super 66, but not instant lotteries and lotteries that have regular draws (for example keno type lotteries), from the provisions of that Act. This amendment now explicitly permits the lottery licensee to accept entries in an approved lottery via the telephone or another communications device.

Clause 93 amends section 129 by removing the reference to the agency payment period that currently limits the time period within which a prize may be claimed from a lottery agent.

Clause 94 amends section 130 to also facilitate longer time periods for claiming prizes from a lottery agent.

Clause 95 amends section 134 by increasing the maximum penalty for use of regulated lottery equipment that has not been approved by the chief executive or modifying approved lottery equipment without approval from 40 penalty units to 200 penalty units.

Clause 96 inserts a new divisional heading 'Division 1 – Inspectors'. This new division replaces sections 153-157 and provides that persons may be appointed under this Act as an inspector. This amendment provides for more flexibility and allows the chief executive to appoint a person to be an inspector for the sole purposes of this Act, rather than relying on their appointment under another gaming Act. The new division also provides for the issue of an identity card to each appointed inspector and requires that the inspector must produce or display their identity card when entering a place where a lottery is being, or is about to be, conducted under a lottery licence or a place where a lottery licensee or a lottery agent carries on business when the place is open for carrying on business, or otherwise open. However, the inspector need not produce or display their identity

card when entering a public place or the land around premises to ask its occupier for consent to enter the premises. New sections also provide for the actions required when an inspector leaves office or resigns, and investigation by the chief executive of a person's suitability to be or remain an inspector, including obtaining a criminal history of the person. The new division is consistent with the provisions of other gaming Acts.

Clause 97 amends section 181A increasing the maximum penalty for failing to comply with a direction about the conduct of a lottery from 40 penalty units to 100 penalty units.

Clause 98 inserts a new section 223A to provide that the Gaming Commission must as soon as practicable, after a decision, provide each party to the appeal written notice of the decision and its reasons for the decision.

Clause 99 amends section 225 to define confidential information as information, other than information that is publicly available, about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act.

Clause 100 inserts a new divisional heading 'Division 4 – Transitional provisions for Gambling Legislation Amendment Act 2004'. This new division ensures that show cause actions, directions to rectify and appeals to the Gaming Commission started prior to the amendments continue to have effect under the pre-amended provisions.

Clause 101 amends schedule 2, part 2, entry for section 64 to insert new references for sections amended by clause 90 to allow a key person licensee to appeal to the Gaming Commission where the chief executive has immediately suspended a key person licence or a licensee has been censured or directed to rectify. This also corrects the reference to allow the key person licensee to appeal to the Gaming Commission where the licence is suspended or cancelled.

Clause 101 also omits the provision for a lottery licensee to appeal to the Gaming Commission where a key person licence held by an employee of the lottery licensee is suspended or cancelled. The existing provision is an anomaly that has never been exercised, and this amendment brings the appeal provisions into line with those of the *Casino Control Act 1982* and the *Gaming Machine Act 1991*. The interests of the licensed provider are still protected by the provisions of new sections 62 and 63 that require the chief executive to immediately give the lottery licensee notice of the suspension or cancellation of a key person licence.

Clause 102 amends schedule 3 (Dictionary) by replacing the definitions of ‘accepted representations’, ‘identity card’, ‘inspector’, ‘show cause notice’, and ‘show cause period’, and adding new definitions to facilitate the sections inserted or amended in Part 7. The inserted definition of ‘criminal history’ means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986* and provides for disclosure of all convictions and charges, despite sections 5 and 6 of that Act. The power of the chief executive to scrutinise persons involved or wishing to be involved with lottery operations is fundamental to preventing criminal involvement and ensuring the integrity of lottery operations and gaming. It is therefore necessary to ensure that until the chief executive can be confident there is no involvement of criminal elements, no person should be involved in the conduct of lotteries or appointed as an inspector.

Although the Bill inserts a definition of criminal history which conflicts with the policy set out in the *Criminal Law (Rehabilitation of Offenders Act) 1986*, this amendment brings the existing and new sections into line with those of other gaming Acts. These amendments enable the chief executive to ask the commissioner of the police service for a written report of a person’s criminal history. These provisions have provided high standards of probity for other forms of gaming. This provision is necessary as it is fundamental that the chief executive retain the power to scrutinise persons involved or wishing to be involved with lottery operations, or who are appointed or wishing to become appointed as an inspector, to prevent criminal involvement and ensure the integrity of lottery operations and gaming. Until the chief executive is confident that there is no involvement of criminal elements, no person should be involved in the conduct of lottery or appointed as an inspector. This power must therefore extend to the disclosure of all convictions and charges.

PART 8—AMENDMENT OF TAB QUEENSLAND LIMITED PRIVATISATION ACT 1999

Clause 103 notes that Part 8 amends the *TAB Queensland Limited Privatisation Act 1998*.

Clause 104 omits section 43. Removal of this section corrects an oversight whereby a Gazettal notice declaring the day from which Part 5 of

the Act applies was not made. The correction is necessary to apply Part 5 of the Act as originally intended.

Clause 105 inserts a new heading 'Part 7-Transitional Provision'. The new part clarifies that the effect of clause 104 is that part 5 of the Act applies from the commencement of part 8 of this amendment Bill.

PART 9—AMENDMENT OF WAGERING ACT 1998

Clause 106 notes that Part 9 amends the *Wagering Act 1998*.

Clause 107 amends section 5 changing the reference from 'racing venue' to 'licensed venue' to reflect the term used in the *Racing Act 2002*.

Clause 108 replaces section 6 with a new section that defines a race wagering licence in terms that are consistent with those used in the *Racing Act 2002*.

Clause 109 amends section 28 changing the reference from 'racing venue' to 'licensed venue' to reflect the term used in the *Racing Act 2002*.

Clause 110 amends section 114 to provide that if the chief executive decides to change the conditions of a key person licence, the chief executive must immediately give written notice of the changed conditions and an information notice about the decision.

Clause 111 inserts a new divisional heading 'Division 7 – Suspension and cancellation of key person licences, and other action by chief executive'. The replacement division modernises the provisions dealing with key person licences by making them consistent with disciplinary actions and procedures in other gaming Acts. In this regard, the new sections deal with the grounds for suspending or cancelling a licence, the chief executive's duty to issue a show cause notice and to consider representations by employees in receipt of show cause notices. They also cover: immediate suspension; suspension or cancellation after the show cause process; ending the show cause process; the issue of censures to licensees; and directions to rectify and accompanying information notices. The provisions also allow the chief executive to cancel or reduce a period of suspension where appropriate.

Clause 112 amends section 174 by inserting a new subsection to provide that the chief executive may exclude the particular information mentioned

in the subsection from a supplier's control system submission, if satisfied the information is not necessary for the proper consideration of the submission. For example, if the control system submission were to require ten items of information and the chief executive was satisfied that only three were necessary, the remaining seven would not be required as part of the submission.

Clause 113 amends section 207 increasing the maximum penalty for using equipment not approved by the chief executive from 40 penalty units to 200 penalty units.

Clause 114 omits section 215 regarding the banning of excessive gamblers from participating in wagering to make way for the provisions of clause 115.

Clause 115 inserts a new divisional heading 'Division 2A – Excluding persons from approved places of operation or taking part in approved wagering'. The new division provides for the exclusion of persons from taking part in approved wagering. A new section 216A provides that a person may give a general operator a notice asking to be prohibited from entering or remaining in or taking part in wagering at the operator's approved place or places of operation. This is referred to as a self-exclusion notice. If the general operator has more than one approved place of operation, the exclusion for the purposes of this section could be applied to one, some or all of the approved places of operation. In the case of a general operator such as UNiTAB Limited, the prohibition could only extend to all of the branches that are directly operated by UNiTAB Limited. With a wagering agent, the prohibition could only extend to those agencies that are operated by a particular wagering agent. The new section 216B provides that if a person gives a self-exclusion notice to a general operator, the operator must as soon as practicable give the person a self-exclusion order and give the chief executive a copy of the self-exclusion order and notice. The intention of this provision is that these actions are to be taken immediately upon receipt of the notice having regard to practical and commercial constraints, but in any case within a day or so. A self-exclusion order must also provide information about entities that provide counselling services for problem gamblers. Failure to issue a self-exclusion order will attract a penalty of 50 penalty units. Section 216B(2) outlines the period for which the self-exclusion order is to be in force, which is five years after the day the order is given. A new section 216C deals with the revocation of the self-exclusion order, which allows the person wanting to be self-excluded to revoke the self-exclusion order within 24 hours after the person receives it from the general operator or at least one year after the person receives it.

A new section 216D provides for the exclusion of a person by a general operator, if the operator believes on reasonable grounds that the person is a problem gambler. The exclusion will be effected once the operator gives the person a written direction prohibiting them from participating in approved wagering at, or entering or remaining in, the operator's approved place of operation. If a general operator gives the person a direction, it must be accompanied by an information notice about the decision. If a general operator has more than one approved place of operation, the exclusion for the purposes of this section may apply to any or all of the approved places of operation. In the case of a general operator such as UNiTAB Limited, the prohibition could only extend to all of the branches that are directly operated by UNiTAB Limited. With a wagering agent, the prohibition could only extend to those agencies that are operated by a particular wagering agent. A new section 216E sets out the period in which the direction has effect. The direction will commence when it is given to the person and ceases when the licensed provider issues a revocation notice or five years after the direction is given to the person. A new section 216F provides for the revocation of a direction by the general operator. In this section, the general operator may give the person a written notice to revoke the direction only, if the operator is satisfied on reasonable grounds that the person is no longer a problem gambler. The revocation of a direction may only occur at least one year after the direction is given. An application for revocation may be made only once per year and must be in the approved form, and supported by enough information to enable the operator to decide the application. Under the new section 216G a general operator who receives an application for revocation must consider the application and make a decision on it within 28 days, otherwise it will be taken that the application is refused. The new section also provides that in considering the application, the operator may have regard to the supporting information and any other information the operator considers relevant. If a general operator decides to revoke an exclusion direction, the operator must as soon as practicable give the applicant a notice of revocation, which takes effect from then, and give a copy of the notice to the chief executive. If the general operator refuses the application, the operator must as soon as practicable give the applicant an information notice for that decision.

Clause 115 also inserts a new section 216H that makes it an offence for a person to enter or remain in an approved place of operation or to participate in approved wagering if the person is prohibited under a self-exclusion exclusion order or exclusion direction. This offence carries a penalty of 40 penalty units to the prohibited person. A new section 216I provides that if a person pleads guilty to an offence under section 216H(2) or the court finds the defendant guilty, then the court may postpone its penalty decision on a

condition that the defendant attends counselling on a basis decided by the court. The counselling must be of a kind that in the court's opinion must be of benefit to assist the defendant in overcoming the harmful behaviour related to gambling and must be for not more than 12 months. This section also provides a discretionary power for a counsellor to disclose to the court, information about the defendant's participation in the counselling. In addition, if the defendant fails to attend counselling, the counsellor must report it to the court. The new section also provides the circumstances upon which the court must make a decision on a postponed penalty.

The new section 216J provides an offence penalty for general operators and employees of general operators if they do not take reasonable steps to prevent an excluded person from taking part in approved wagering or entering or remaining in the operator's place of operation. The new section 216J also provides that general operators and employees are permitted (but not required) to use necessary and reasonable force to prevent an excluded person from taking part in approved wagering or entering or remaining in the operator's place of operation, provided that the force used is not likely to cause bodily harm to the person. The new section 216K requires a general operator to keep a register of excluded persons. The register must be available for inspection by an inspector, and must be in an approved form. It is intended the approved form will include provision for: the name of each excluded person; details of the self-exclusion order or details of the grounds for the exclusion direction; and details of any incident where the person had to be prevented from taking part in keno gaming at, or entering or remaining in, the agent's approved place of operation. It is also intended that because any self-exclusion order or exclusion direction may relate to one stated approved place of operation or all approved places of operation of the general operator and does not cease to have effect when another person becomes the operator, details of all existing self-exclusion orders and exclusion directions contained in the register must be provided to the new operator. This is to ensure that the new operator can record the details of the existing orders and directions in their register, without revealing the details of persons who were subject to expired orders or directions.

The new section 216L requires the general operator to notify the chief executive each time the operator or an employee of the operator prevents an excluded person from taking part in wagering or entering or remaining in the operator's place of operation.

Clause 116 omits the provision for an authority operator to appeal to the Gaming Commission where a key person licence held by an employee of the authority operator is suspended or cancelled. The existing provision is an anomaly that has never been exercised, and this amendment brings the

appeal provisions into line with those of the *Casino Control Act 1982* and the *Gaming Machine Act 1991*. The interests of the authority operator are still protected by the provisions of new sections 126 and 127 that require the chief executive to immediately give the authority operator notice of the suspension or cancellation of a key person licence.

Clause 117 amends section 294 to insert new references for sections amended by clause 111 to allow a key person licensee to appeal to the Gaming Commission where the chief executive has immediately suspended a key person licence or a licensee has been censured or directed to rectify. This also corrects the reference to retain the provisions which allow the key person licensee to appeal to the Gaming Commission where the licence is suspended or cancelled.

Clause 118 omits section 302 on appeals to make way for the provisions of clause 119. A replacement section 302 provides that the Gaming Commission must as soon as practicable, after deciding an appeal, provide each party to the appeal written notice of the decision and its reasons for the decision.

Clause 119 inserts a new subdivisional heading ‘Subdivision 2 – Appeals to Magistrates Court’. The new subdivision provides an appeal mechanism to a Magistrates Court against a decision by a general operator to exclude a person from the premises or to participate in wagering. A new section 302A sets out who may appeal to a Magistrates Court. A new section 302B sets out how the appeal is to start and sets a timeframe of 28 days after the person is given the information notice of the decision, for the person to lodge the appeal to a Magistrates Court. A new section 302C gives the Magistrates Court the power to grant a stay of the decision to secure the effectiveness of the appeal. The Magistrates Court may give the stay with conditions considered appropriate by the court and may also fix a period for the stay to operate. A new section 302D sets out how an appeal is to be heard by the Magistrates Court and provides that the Magistrates Court is not bound by the rules of evidence and must comply with the principles of natural justice. The new section 302E outlines the powers of the Magistrates Court on appeal. This new section provides that in deciding an appeal, the Magistrates Court may (i) confirm the decision appealed against, (ii) set aside the decision and substitute it for another decision or (iii) set aside the decision and return the matter to the licensed provider with directions the court considers necessary. A new section 302F is inserted dealing with appeals to the District Court against a decision of a Magistrates Court on a question of law.

Clause 120 amends section 308 to define confidential information as information, other than information that is publicly available, about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background, or information about a person making an application under this Act.

Clause 121 inserts a new divisional heading 'Division 2 – Transitional provisions for Gambling Legislation Amendment Act 2004'. The new division institutes transitional provisions to allow matters such as show cause actions, directions to rectify and appeal actions that had commenced, and the race wagering licence that was in force, before the commencement of this amendment Bill to proceed as if the amendments had not commenced.

Clause 122 amends schedule 2 (Dictionary) by replacing the definitions of 'accepted representations', 'information notice', 'race meeting', 'show cause notice', 'show cause period' and 'sporting event', omitting the definitions of 'greyhound race', 'horse race', 'racing entity', 'racing venue' and 'trotting race', and adding new definitions to facilitate the sections inserted or amended in Part 9.

PART 10—CONSEQUENTIAL AND OTHER AMENDMENTS

Clause 123 makes minor technical amendments listed in the Schedule.

SCHEDULE

CONSEQUENTIAL AND OTHER AMENDMENTS

The schedule provides for minor technical amendments to the *Casino Control Act 1982*, *Gaming Machine Act 1991*, *Interactive Gambling (Player Protection) Act 1998*, *Keno Act 1996*, *Lotteries Act 1997*, *Police Powers and Responsibilities Act 2000* and the *Wagering Act 1998*.

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