

Revenue and Other Legislation Amendment Bill (No. 2) 2007

Explanatory Notes

General Outline

Policy Objectives

To amend the:

1. *Duties Act 2001* to provide the necessary legislative support for implementation of the Office of State Revenue's Revenue Management System for duties;
2. *Taxation Administration Act 2001* and *Fuel Subsidy Act 1997* to clarify the application of the *Electronic Transactions (Queensland) Act 2001* for state revenue matters;
3. *Gaming Machine Act 1991* to implement changes to the hotel gaming machine operating authority reallocation scheme and to provide increased time for clubs and hotels to install approved gaming machines before the approval lapses; and
4. *Energy Assets (Restructuring and Disposal) Act 2006* to revive the powers of the Minister to facilitate the divestment of the wind farms and associated sites (and development opportunities) of Stanwell Corporation Ltd (Stanwell) and Tarong Energy Corporation Ltd (Tarong) and the Queensland Power Trading Corporation (trading as Enertrade) (Enertrade) gas business. The Bill also deals with certain matters arising out of the winding up of Enertrade.

Reasons for the Bill

Duties Act 2001

The *Duties Act 2001* provides for the imposition of a range of duties such as transfer duty, insurance duty and mortgage duty. The *Taxation Administration Act 2001* provides the administrative framework for duties, pay-roll tax and the Community Ambulance Cover levy.

The Office of State Revenue (OSR) has developed a Revenue Management System (RMS) which consists of a major systems redevelopment to replace existing aged systems and enable clients to transact business with OSR electronically. RMS Release 1 enabled e-functionality to pay-roll tax clients. RMS is now being extended to provide e-functionality for duties (RMS Release 2) and the Bill will provide legislative support for the implementation. Amendments to the *Taxation Administration Regulation 2002* have also been identified and are being progressed in an amendment regulation.

The Bill amends the *Duties Act 2001* to:

- provide for the Commissioner of State Revenue (Commissioner) to either impress stamp or endorse instruments and clarify the information required in an endorsement; and
- introduce a new self assessor penalty provision for incorrect or obscured endorsements on self assessed instruments.

The changes are of an administrative nature. No changes will be made to the taxing provisions, including tax rates or exemptions.

Taxation Administration Act 2001, Fuel Subsidy Act 1997

The *Electronic Transactions (Queensland) Act 2001* permits a requirement under a Queensland law for the production of information or documents in writing to be satisfied by giving the information or documents in electronic form, provided the recipient consents.

The *Taxation Administration Act 2001* and the *Fuel Subsidy Act 1997* will be amended to clarify that the Commissioner has power to consent to documents being given electronically under the *Electronic Transactions (Queensland) Act 2001*.

Gaming Machine Act 1991

The statutory review of the gaming machine operating authority reallocation scheme for hotels has been completed and the regulator has identified several beneficial amendments to the *Gaming Machine Act 1991*. The scheme only applies to category 1 licensed premises (hotels) and does not apply to category 2 licensed premises (clubs). Significantly, the Queensland Gaming Commission (the Commission) will be able to approve the transfer of operating authorities where a hotel is forced to move.

Further, the Commission will be able to extend the time for installing gaming machines where extensions to, or the construction of new hotel or

club premises is delayed, due to exceptional circumstances. The lapsing of time limited approvals is an issue for both clubs and hotels which are both expected to benefit from increased timeframes.

Energy Assets (Restructuring and Disposal) Act 2006

Legislation is required to facilitate the disposal of particular gas and electricity businesses of the energy entities and to facilitate the winding up of Enertrade.

Achievement of the Objectives

Duties Act 2001

Under the *Duties Act 2001* duty is currently either assessed by the Commissioner or by self assessors registered to lodge returns with the Commissioner.

Chapter 15 of the *Duties Act 2001* deals with stamping of instruments. In particular, instruments are properly impressed stamped by the Commissioner or endorsed by a self assessor.

The Bill amends the *Duties Act 2001* to provide that the Commissioner can either impress stamp or endorse instruments.

Chapter 12 Part 1, Part 2 and Part 3 of the *Duties Act 2001* details various classes of self assessors.

The Bill amends the *Duties Act 2001* to clarify the way instruments are endorsed by Chapter 12 Part 2 and Part 3 self assessors.

Chapter 14 of the *Duties Act 2001* contains provisions imposing administrative penalties for certain self assessor actions or related actions, as well as the imposition of a penalty if a self assessor registered under Chapter 12 Part 2 or Part 3 does not lodge a return or pay an amount, or provides a return containing false or misleading information. Imposition of an administrative penalty is an alternative to prosecution for an offence.

While penalty provisions currently exist in respect of a self assessor incorrectly completing a return or an unregistered person self assessing documents, it is necessary to include a penalty provision to deal with situations where self assessors or persons purporting to be self assessors incorrectly endorse instruments or obscure self assessment notations on instruments. The requirement upon self assessors to endorse instruments in a proper and legible way is essential for the successful operation of the self assessment system.

The Bill amends the *Duties Act 2001* to introduce a new self assessor penalty provision for incorrect endorsement or obscuring an endorsement on self assessed instruments.

Taxation Administration Act 2001, Fuel Subsidy Act 1997

Part 11 of the *Taxation Administration Act 2001* deals with giving and lodging documents. In particular, documents may be given or lodged with the Commissioner in various ways. The *Fuel Subsidy Act 1997* also contains a provision for dealing with how documents may be given to the Commissioner.

The *Electronic Transaction (Queensland) Act 2001* permits a requirement under a Queensland law for the production of information or documents in writing to be satisfied by giving the information or documents in electronic form, provided the recipient consents.

The Bill amends the *Taxation Administration Act 2001* and the *Fuel Subsidy Act 1997* to clarify that the Commissioner may consent to documents being given electronically under the *Electronic Transactions (Queensland) Act 2001*.

Gaming Machine Act 1991

Amendments will be made to the gaming machine operating authority reallocation scheme contained in the *Gaming Machine Act 1991* which will be of benefit to the hotel industry. This includes increasing timeframes for the installation of gaming machines and providing flexibility for the transfer of operating authorities when a licensee is required to relocate premises for reasons beyond their control to incongruous premises. Clubs will also benefit from the increased timeframes for the installation of gaming machines.

Energy Assets (Restructuring and Disposal) Act 2006

The Bill achieves its main policy objectives by:

- facilitating the restructure of the businesses of the energy entities to package the businesses into discrete forms for disposal and also ensure the continued operation of the energy entities that remain in government ownership;
- conferring on the Minister the power by transfer notice to effect the transfer of businesses, assets and liabilities of the energy entities to other energy entities or the State;

- conferring on the Minister the authority to give directions to the board of an energy entity requiring it to do something the Minister considers necessary or convenient for effectively carrying out the project, which includes making decisions that would normally be done under other Acts by other persons;
- a speedy process to deal with the appropriate licensing of certain energy entities and matters arising under the 13% Gas Scheme under the *Electricity Act 1994* (“EA”);
- a speedy process to transfer certain applications, authorities and licences from energy entities to other energy entities under the *Environmental Protection Agency Act 1994* and the *Petroleum and Gas (Production and Safety) Act 2004*; and
- to facilitate the winding up of Enertrade.

Alternatives to the Bill

The policy objectives can only be achieved by legislative enactment.

Estimated Cost for Government Implementation

Implementation costs of amendments to the *Duties Act 2001* are not expected to be significant. These costs relate to changes in publications, documents, website and systems, staff training and managing enquiries through the implementation period.

There is no implementation cost associated with the amendments to the *Taxation Administration Act 2001* and the *Fuel Subsidy Act 1997*.

Implementation costs relating to the *Gaming Machine Act 1991* amendments are not expected to be significant.

The cost of administering the amendments to the *Energy Assets (Restructuring and Disposal) Act 2006* is expected to be minor and can be defrayed by the proceeds of sale of the particular gas and electricity businesses.

Consistency with Fundamental Legislative Principles

Amendments to Duties Act 2001 and Taxation Administration Act 2001

The proposal for a new penalty provision for self assessors and persons purporting to be self assessors either incorrectly endorsing a self assessed

instrument or obscuring an endorsement on an instrument may arguably restrict the rights and obligations of individuals. The penalty provision will operate on the basis that either a maximum 100 penalty unit penalty for an offence may be imposed or the Commissioner may impose an administrative penalty amount. Imposition of a maximum 100 penalty unit penalty is consistent with existing *Duties Act 2001* penalty unit offences while the option to impose a penalty amount already exists as a sanction for certain self assessor actions.

The proposed penalty provision is necessary given that existing *Duties Act 2001* and *Taxation Administration Act 2001* penalty provisions do not extend to incorrect or obscured endorsements on self assessed instruments. Penalties exist for unregistered persons purporting to act as self assessors and for self assessors who incorrectly endorse a return or other documents given to the Commissioner. Introduction of the proposed penalty provision will compliment existing penalty provisions to support the operation of the self assessment system.

This penalty provision is necessary to ensure the revenue base is protected. As with other penalty provisions, an affected person may challenge either the prosecution of a penalty unit offence or seek a review of the imposition of a penalty amount.

A further issue may arise regarding the sufficient definition of administrative power given that the new penalty provision provides the Commissioner with the discretion to either prosecute or impose a penalty on a range of behaviours from an inadvertent mistake to deliberate default. However, the new penalty provision is consistent with a number of existing penalty provisions in the *Duties Act 2001*.

The remaining provisions are not considered to raise fundamental legislative principle issues.

Amendments to Gaming Machine Act 1991

The amendments have been drafted with regard to fundamental legislative principles.

Amendments to Energy Assets (Restructuring and Disposal) Act 2006

On 3 June 2007, the Government announced its decision to approve the sale of the wind farms and associated sites (and development opportunities) owned by Stanwell and Tarong and the Enertrade gas business, with net receipts from the sales, after retirement of debt, being used to establish the Queensland Climate Change Fund (“the 2007 project”).

The Government Sales Team has commenced:

- (1) the process of identifying and examining the assets and liabilities of the energy entities for the purpose of the restructuring the businesses of the energy entities, and the divestment of the wind farm assets and businesses of Stanwell and Tarong and the gas business of Enertrade; and
- (2) the sale processes for the wind farm assets and businesses of Stanwell and Tarong and the Enertrade gas business.

The Bill's objective is to facilitate and ensure the completion of the sale process by 31 December 2007. If the Bill does not override some third parties' rights, it would not be possible for the restructure of the businesses to occur in a manner which maximises the return to the State, and enable this project to be completed within the State's proposed timeframe. This is a significant commercial project and the purchasers of the relevant energy entity and their customers require certainty. It is necessary to limit the ability of third parties to unreasonably delay the implementation of this project.

It should be noted that the powers of the Minister under Part 3, 5A, 5B and 5C cannot be utilised at the point when the sale entities are sold, and any contractual requirements for third parties to agree to a change in the identity of the parent entity on the sale may then be exercised.

The Bill may infringe FLPs in that, the Bill revives powers of the Minister under Part 3 which:

- (a) may be inconsistent with the principles of natural justice;
- (b) directly affects third parties' rights in relation to commercial contracts between third parties and energy entities;
- (c) authorises the Minister, by gazette notice, to do things which affect third parties' rights in relation to commercial contracts between third parties and energy entities;

It is noted that the powers of the Minister under Parts 3, 4 and 5 of the *Energy Assets (Restructuring and Disposal) Act 2006* in relation to the restructure and sale of the retail energy entities and the Allgas distribution business previously lapsed on 1 July 2007.

The Bill raises the following fundamental legislative principles:

- (i) Rights and liberties of individuals, disclosure of confidential information – *Legislative Standards Act section 4(3)* & conferring immunity from liability - *Legislative Standards Act section 4(3)(h)*

The revival of the powers to be used by the Minister under Part 3 of the *Energy Assets (Restructuring and Disposal) Act 2006* permits the operation of section 56 and 57 in relation to the 2007 project and authorises the disclosure of information in the possession or control of an energy entity to those persons who are involved in the 2007 project or have entered into a confidentiality agreement mentioned in section 55; and other energy entities (including any employee or agent) who have acquired an asset or liability by way of a transfer or direction under the Act, the *Electricity Act 1994 (EA)* or the *Government Owned Corporations Act 1993*.

To further assist the disclosure of information for the purposes of the restructure and disposal processes, section 56(2) compels an energy entity to comply with a request by another entity (including a person involved in the 2007 project on behalf of the State) for the disclosure of information for the purpose of the 2007 project; and section 57(2) deems that where consent is required to do something under the Act, such as disclosing information, consent is taken to be given unconditionally.

A disclosure of information under sections 55, 56 or 57 may operate to affect third parties who have entered into commercial contracts with the energy entities. The restructure and disposal of the energy entities cannot be completed within the strict timeframe without sharing or transferring information between the energy entities or providing persons involved in the 2007 project and prospective purchasers with access to all relevant commercial information. There are numerous contracts within each of the energy entities with differing requirements for the disclosure of information. Given the large number of third parties involved and the tight timeframe involved for the sale of these energy entities, it has not been logistically possible to obtain all third party consents for the disclosure of the information.

Sections 56 and 57 also contain provisions for the protection of the State, energy entities and persons involved in the 2007 project, when disclosing information for the purpose of the project. Section 56 provides that a person acting honestly in the disclosure or use of information is not liable civilly, criminally or under an administrative

process, whilst section 57 provides protection to the State and other entities from liability for all things done under the Act (e.g. disclosing information). These provisions will assist in the restructure and disposal processes by authorising the flow of information between energy entities, the project team and potential purchasers.

- (ii) Power to make a gazette notice overriding other laws and instruments - *Legislative Standards Act section 4(4)* & conferring immunity from liability - *Legislative Standards Act section 4(3)(h)*

The revival of the powers to be used by the Minister under Part 3 of the *Energy Assets (Restructuring and Disposal) Act 2006* also authorises the Minister to undertake a range of actions, by gazette notice, for the purpose of the 2007 project. A transfer notice under section 9 has effect despite any other law or instrument. The effect of section 9 is to enable the speedy creation of a number of commercially viable businesses. A transfer notice issued under section 9 is the simplest mechanism to restructure the government owned businesses within the strict timeframe. The protection from liability provided to energy entities and persons involved in the project under section 57 will also apply to action taken under a transfer notice under section 9.

Given the number and complexity of commercial arrangements between third parties and energy entities, it would be impractical to negotiate with all of the third parties within the timeframe. All of the energy entities being restructured are government owned entities and upon restructure will still be government owned, therefore, it is considered that the rights of third parties under commercial arrangements will not be greatly affected. Following the restructure, the powers and immunities cannot be used when the relevant entities are sold by way of a competitive process.

Sections 9 and 57 of the *Energy Assets (Restructuring and Disposal) Act 2006* are necessary to ensure that third parties with commercial relationships with the project energy entities do not seize the opportunity to exploit the State's restructuring of its 2007 project energy entities. Given the significance of this 2007 project and strict timeframe, third parties may seek to renegotiate the provisions of their commercial agreements or delay the restructure in order to further their own commercial interests to the detriment of the State and the people of Queensland. For example, third parties could withhold their consent to the change of ownership of an energy entity, which they would ordinarily grant in a normal commercial process. The common

law provides that third parties to a contract must not unreasonably withhold their consent. However, third parties may delay giving their consent, or attach unreasonable terms to their consent, because they are fully aware that the time constraints for the 2007 project do not permit the State to pursue legal proceedings against them.

- (iii) Rights and liberties of individuals, facilitation of evidence by certificate - *Legislative Standards Act section 4(3) and 4(3)(a)*

The revival of the powers to be used by the Minister under Part 3 of the *Energy Assets (Restructuring and Disposal) Act 2006* leads to the situation where decisions under the Act are subject to section 50 of the *Energy Assets (Restructuring and Disposal) Act 2006*. Section 50 provides that a decision under the *Energy Assets (Restructuring and Disposal) Act 2006* is final and conclusive and is not reviewable under the *Judicial Review Act 1991* or otherwise. Section 61 of the *Energy Assets (Restructuring and Disposal) Act 2006* provides that a signed Minister's certificate is conclusive evidence in relation to a thing or action taken under the Bill.

Sections 50 and 61 are necessary due to the strict timeframe for the completion of the project. Any review of a decision made, or action taken, under the of the *Energy Assets (Restructuring and Disposal) Act 2006* will have significant adverse financial implications for the State and would hinder the restructure and disposal processes of the selected energy entities. The Minister's decisions are limited to the purposes of the 2007 project, exercisable for a prescribed timeframe, and are directed solely at facilitating the restructure and disposal of the selected energy businesses for the benefit of the State and the people of Queensland. The provisions are also necessary to ensure commercial certainty for any purchaser of the selected energy entities from the State.

Consultation

Public consultation with selected self assessors and their representative bodies have been undertaken on RMS Release 2 to which the Bill will be providing legislative support.

Government consultation for the amendments to the *Gaming Machine Act 1991* was undertaken with the Departments of the Premier and Cabinet; Treasury; Tourism, Fair Trading and Wine Industry Development; Local Government, Planning, Sport and Recreation; Communities; State Development; Transport; Infrastructure; Justice and Attorney-General;

Education, Training and the Arts; and Employment and Industrial Relations.

Consultation was also undertaken with industry participants and other relevant stakeholders. These stakeholders included Clubs Queensland and the Queensland Hotels Association. Several consultation papers were also posted for public consultation on the Queensland Office of Gaming Regulation website and the ConsultQld website.

Consultation was undertaken with the Department of Mines and Energy and the Environmental Protection Agency in relation to the *Energy Assets (Restructuring and Disposal) Act 2006* amendments.

Notes on Provisions

Part 1 Preliminary

Clause 1 cites the short title of the Bill.

Clause 2 states the dates on which the divisions of Part 2 of the Bill commence.

Part 2 Amendment of *Duties Act 2001*

Clause 3 states that Part 2 amends the *Duties Act 2001*.

Clause 4 amends section 445(2) of the *Duties Act 2001* which specifies the information that must be provided on a notice of registration for a self assessor that is a party to transactions. A new subparagraph (j) is inserted requiring the notice of registration to include the self assessor's client number.

Clause 5 amends section 452(2) of the *Duties Act 2001* which specifies the information that must be provided on a notice of registration for a self assessor that acts as an agent for parties. A new subparagraph (j) is

inserted requiring the notice of registration to include the self assessor's client number.

Clause 6 amends section 492 of the *Duties Act 2001*, which specifies how the Commissioner must stamp instruments. It is amended to provide that the Commissioner must endorse an instrument rather than stamping the instrument with an impressed stamp. This reflects the generic stamping processes for both Commissioner and self assessed instruments that will be implemented under RMS Release 2.

Clause 7 inserts a new Chapter 17, Part 8 into the *Duties Act 2001* containing savings and transitional provisions for the *Revenue and Other Legislation Amendment Act (No. 2) 2007*. A new section 587 is inserted to provide that an instrument is still properly stamped if it has been stamped in accordance with section 492 as in force prior to the commencement day or stamped during the transitional period in a way that complies with section 492 as in force immediately prior to the commencement day. The "commencement date" is defined as 7 January 2008 and the "transitional period" is defined as the period of 1 year starting on 7 January 2008.

Clause 8 amends the dictionary contained on Schedule 6 of the *Duties Act 2001* to include a new definition for "client number".

Clause 9(1) amends section 455(1)(c) of the *Duties Act 2001* to require self assessors to stamp instruments by endorsing them rather than endorse them. This only represents a change of terminology and reflects the fact that a self assessor stamps an instrument rather than merely endorsing it.

Clause 9(2) amends section 455(2) to specify the information that is to be included in an endorsement by a self assessor.

Clause 9(3) inserts a new subsection 455(5) into the *Duties Act 2001* to include a definition of "transaction number".

Clause 10 inserts a new section 481A into the *Duties Act 2001* which creates an offence in the following circumstances:

- a person making an endorsement incorrectly states a client number, transaction number or an amount of duty, assessed interest or penalty tax paid on the instrument;
- the endorsement contains other information that the person knows, or should reasonably know, is false or misleading in a material particular;
or
- the person obscures all or part of the endorsement or otherwise makes all or part of the endorsement illegible.

Clause 11 inserts a new administrative penalty provision into section 488 of the *Duties Act 2001* whereby, if a person contravenes section 481A in relation to the endorsement of an instrument, the Commissioner may, as an alternative to prosecution under section 481A, require a person to pay a penalty of up to a maximum of 75 per cent of the duty payable under the instrument or \$100 whichever is the greater.

Clause 12 amends section 491 of the *Duties Act 2001*, which provides that an instrument is properly stamped if it is stamped (by the Commissioner) under section 492 or endorsed (by a self assessor) under section 455(1)(c). It is amended to provide that, in relation to section 455(1)(c), an instrument is properly stamped if it stamped rather than endorsed. This only represents a change of terminology and reflects the fact that a self assessor actually stamps an instrument rather than merely endorsing it.

Clause 13 replaces the Chapter 17, Part 8 savings provisions to accommodate different commencement dates for the amendments in relation to the Commissioner, self assessors that are a party to transactions and self assessors that act as agents for parties (agent self assessors).

- Section 587 is amended to omit savings provisions about when an instrument is properly stamped by the Commissioner and to insert definitions of “agent self assessor” and “amending Act” for the purposes of Chapter 17, Part 8.
- A new section 588 is inserted to delay, in respect of agent self assessors, the application of the amendments to sections 455, 488 and 491 and the application of the new section 481A until 3 March 2008.
- A new section 589 is inserted to provide that an instrument is still properly stamped if it has been endorsed or stamped in accordance with sections 455(1)(c) or 492 as in force prior to the commencement day or stamped during the transitional period in a way that complies with section 492 as in force immediately prior to the commencement day. The “commencement date” is defined as 4 February 2008 for an instrument endorsed by a self assessor that is a party to transactions, 3 March 2008 for an instrument endorsed by an agent self assessor and 7 January 2008 in any other case. The “transitional period” is defined as the period of 1 year starting on 7 January 2008.

Part 3 Amendment of the *Energy Assets (Restructuring and Disposal) Act 2006*

Clause 14 states that Part 3 amends the *Energy Assets (Restructuring and Disposal) Act 2006*.

Clause 15 inserts a new definition of “energy entity” which includes a “2006 project energy entity” and a “2007 project energy entity”.

Clause 16 amends the defined term “energy entity” by inserting the words “2006 project” to qualify that definition.

Clause 17 inserts a new definition of the term “2007 project energy entities” and “project” which is defined to include the terms “2006 project” and “2007 project”.

Clause 18 amends the defined term “project” by inserting the words “2006 project” to qualify that definition.

Clause 19 inserts a new definition of the term “2007 project”. The definition of “2007 project” is limited to the specific steps required to achieve the policy objectives.

Clause 20 applies Part 3 of the Act to the “2006 project” and the “2007 project”.

Clause 21 amends sections 9(1)(f) and 9(1)(g) to include a reference to “the State”.

Clause 22 provides that Part 4 of the Act only applies to the “2006 project”.

Clause 23 amends the heading of Part 5 to insert a reference to the 2006 project.

Clause 24 provides that Part 5 of the Act only applies to the “2006 project”.

Clause 25 inserts:

- (a) a new Part 5A Electricity Authorities (2007 project). It is applied only to the “2007 project”. It provides that the Minister may:
 - (i) issue, amend, cancel, or transfer a special approval to an energy entity or accept the surrender of a special approval from an energy entity; and
 - (ii) under the 13% Gas Scheme contained in Chapter 5A of the EA:

- (1) transfer an accreditation to an energy entity;
 - (2) register an energy entity as a scheme participant;
 - (3) grant a liable load exemption to an energy entity; or
 - (4) amend a liable load exemption of an energy entity;
- (b) a new Part 5B Environmental Authorities. It is applied only to the “2007 project” and permits the Minister to transfer from one energy entity to another energy entity an application for an environmental authority (petroleum activities) or an environmental authority (petroleum activities) under the *Environmental Protection Agency Act 1994* by giving written notice to the relevant regulator; and
- (c) a new Part 5C Petroleum Authorities. It is applied only to the “2007 project” and permits the Minister to transfer from one energy entity to another energy entity an application for a pipeline licence or a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004* by giving written notice to the relevant regulator.

Clause 26 amends section 52 by providing that subject to one exception, the Minister may not perform a function under Parts 3, 5A, 5B or 5C of the Act for the 2007 project on or after 1 July 2008. The exception is that the Minister may exercise the powers under Part 3 after 1 July 2008 to the extent that the Minister considers necessary or convenient for a purpose relating to the winding up of Enertrade.

Clause 27 amends the dictionary to deal with new definitions inserted into the Act.

Part 4 Amendment of *Fuel Subsidy Act 1997*

Clause 28 states that Part 4 amends the *Fuel Subsidy Act 1997*.

Clause 29 amends section 142 of the *Fuel Subsidy Act 1997* which specifies how documents may be given to the Commissioner for the purposes of the Act. In order to remove any doubt that the Commissioner may also rely on the *Electronic Transactions (Queensland) Act 2001* to accept electronic lodgements, a new subsection is inserted providing that

the documents may be given to the Commissioner electronically under the *Electronic Transactions (Queensland) Act 2001*.

Part 5 Amendment of *Gaming Machine Act 1991*

Clause 30 states that Part 5 amends the *Gaming Machine Act 1991*.

Clause 31 allows an appeal to the Minister if the number of operating authorities approved to be transferred is less than the number sought in the application.

Clause 32 inserts the words “including an application for a gaming machine licence to replace a gaming machine licence to be surrendered under section 95” after the word “licence” in section 55A(1)(a).

Clause 33 inserts a new section 56A which specifies the matters which must be included in an application for a gaming machine licence for category 1 licensed premises if due to exceptional circumstances the licensee intends to surrender the licence for another licence and seeks the transfer of some or all of the operating authorities for the premises.

Clause 34 inserts a new section 57(3)(g) to provide an additional issue which the chief executive must assess when considering an application for a gaming machine licence, a new section 57(10)(c) to provide for additional matters on which the chief executive must give advice to the Commission if the chief executive recommends the grant of a gaming machine licence, and a new section 57(10AA) which provides that the chief executive must not recommend the transfer, under section 57(10)(c)(ii), of a number of operating authorities that is more than the number of gaming machines the chief executive considers appropriate for the premises to which the application relates.

Clause 35 omits the heading for section 59 and inserts a new heading for section 59 which relates to particulars to be fixed on grant of a gaming machine licence, replaces section 59(2)(a)(ii) with a new section 59(2)(a)(ii) and inserts a new section 59(2)(a)(iii) which requires the Commission to, for an application mentioned in section 56(A), fix the number of operating authorities to be transferred to the licence. The section also inserts a new section 59(5) which in the case of a section 56A application requires the chief executive to give the applicant written notice

if the number of operating authorities fixed for the premises is the same as the number sought, or if the number fixed is less than the number sought, the chief executive must give the applicant an information notice.

Clause 36 omits sections 80A(3) and (4), omits the words before paragraph (a)(ii) in section 80A(4A) and inserts a new section 80A(3) which outlines how the Commission may determine the date which the Commission may fix as the relevant date for a particular licensed premises, omits reference to subsection “(4A)” in section 80A(4B) and inserts reference to subsection “(3)”, renumbers section 80A(4B) as section 80A(4), omits the definition of “relevant date” in section 80A(6) and inserts a new definition of “relevant date”.

Clause 37 replaces the words “6 months” in section 85AA(4)(a)(i) with “1 year”, renumbers paragraph (ii) in section 85AA(4)(a) as paragraph (iii) and inserts a new paragraph (ii). The section also provides that the Commission may extend the relevant date for installing additional gaming machines if it is satisfied there are exceptional circumstances for the deferment. Section 85AA(5) is amended to limit the maximum time allowed for installing a gaming machine to 2 years while the definition of relevant date in section 85AA(7) is altered from 6 months to 1 year.

Clause 38 inserts a new section 95A which modifies the way in which section 95 applies when operating authorities are being transferred to other premises. This includes removing the normal requirement to sell operating authorities when the licence is surrendered.

Clause 39 inserts a new Part 12, Division 12 which contains transitional provisions. If a relevant date under section 80A applied to a licence before the commencement, unamended section 80A would continue to apply. Where a relevant date applied to an approval under section 85AA before commencement, unamended section 85AA would continue to apply.

Part 6 Amendment of *Taxation Administration Act 2001*

Clause 40 states that Part 6 amends the *Taxation Administration Act 2001*.

Clause 41 amends section 143 of the *Taxation Administration Act 2001* which specifies how documents may be given to the Commissioner for the purposes of a revenue law. In order to remove any doubt that the

Commissioner may also rely on the *Electronic Transactions (Queensland) Act 2001* to accept electronic lodgements, a new subsection is inserted providing that the documents may be given to the Commissioner electronically under the *Electronic Transactions (Queensland) Act 2001*.

Clause 42 amends section 144 of the *Taxation Administration Act 2001* which specifies when a document is taken to have been given to the Commissioner. A new subsection is inserted providing that a document given to the Commissioner under the *Electronic Transactions (Queensland) Act 2001* is taken to have been given to the Commissioner at the time determined under that Act.