Gambling and Other Legislation Amendment Bill 2009

Explanatory Notes

General Outline

Policy Objectives

The objectives of the Bill are to:

- Amend the Gaming Acts (*Casino Control Act 1982*, *Charitable and Non-Profit Gaming Act 1999, Gaming Machine Act 1991, Interactive Gambling (Player Protection) Act 1998, Keno Act 1996, Lotteries Act 1997* and the *Wagering Act 1998)* to:
  - — Minimise the potential harm from gambling in the community;
  - — Ensure the integrity of gaming;
  - — Increase administrative efficiency and consistency;
  - — Allow for gaming wagers and winning wagers in casinos to be paid (in addition to chips, cash and cheque) via card based player account credits, or in another way approved by the chief executive.
- Amend the *Liquor Act 1992* (Liquor Act) to:
  - — Increase administrative efficiency and flexibility;
  - — Minimise the potential harm from liquor in the community;
  - — Reduce the regulatory burden on industry; and
  - — Ensure consistency and clarity of the provisions within the Act.
- Amend the *Racing Act 2002* (Racing Act) to assist control bodies to protect the integrity of racing.
- Amend the *Residential Services (Accreditation) Act 2002* (Residential Services Act), to clarify that this legislation is intended to cover the aged rental scheme sector of the residential services industry.

Reasons for the Bill

Amendments to the Gaming Acts

Cap on Gaming Machines in Clubs

Prior to 16 April 2008, clubs were subject to a cap of 280 gaming machines per site. However there was no State-wide cap on club gaming machine numbers (only hotels were subject to a State-wide cap prescribed in legislation). On 17 April 2008 a moratorium on the release of additional club gaming machines was introduced, to apply from 16 April 2008 until at least 30 April 2010, effectively capping the number of gaming machines in Queensland clubs during this period. On 16 November 2008, the Government announced that the moratorium would be permanent and club gaming machines would be capped at 24,705 across the State.

The cap on club gaming machines allows for tighter regulatory control over the growth and spread of gaming machines in order to minimise their harm on individual gamblers and society in general. It provides for a balanced approach to regulating gaming machines in clubs, by allowing clubs to benefit from the revenue provided by gaming machines, but ensuring that gaming machines numbers to do not exceed a certain level.

To facilitate the implementation of the cap (and an associated reallocation scheme) the concept of entitlements has been created. An entitlement is the right to install or operate a gaming machine in a Queensland club, and the total number of entitlements will equal the cap number. Therefore, in addition to having the initial approval for a gaming machine, the licensee will need to acquire an entitlement in order to install or operate the gaming machine. The initial entitlement allocation will be limited to clubs with current approval to install or operate gaming machines, and clubs that made applications before 16 April 2008, and were subsequently approved. Following the initial allocation, entitlements will only be able to be obtained through a prescribed reallocation scheme or authorised sale.

Reallocation Scheme

The introduction of a reallocation scheme is necessary to allow for new club licensees to enter the market, as well as manage demand in existing clubs by allowing for some movement of gaming machines between licensed venues without exceeding the State-wide cap. The scheme will be a market-based transfer model, where entitlements can be transferred between clubs in either permanent or temporary transfers. The market-based transfer scheme provides incentives for industry to

participate, as consideration can be obtained through the transfer of an entitlement. The scheme can also be regulated efficiently as it allows market forces to influence the movement of gaming machines.

Directing Promotional Material to Excluded Persons

Distributing promotional or advertising material related to gambling to excluded persons has previously not been an offence, but only a breach of the voluntary Code of Practice. If a venue was found to be distributing advertising or promotional material to excluded persons, the peak industry body was contacted and notified. The peak body then undertakes an internal process to inform the venue that they have contravened the Code of Practice and the actions needed to rectify the problem. If the licensee continues to fail to comply with the Code of Practice then this will be recorded by the chief executive and it may adversely affect future applications by the licensee.

To protect vulnerable persons, a new offence is proposed to be created for gambling operators who distribute, or cause a person to distribute, advertising and/or promotional material to a known excluded person. The intention is to ensure that persons excluded either by the venue for problem gambling or who are subject to a self-exclusion will not receive advertising and/or promotional material from the venue.

Mandatory Responsible Service of Gambling Training

Previously, only gaming nominees have been required to complete an approved training course about the conduct of gaming. All other employees involved in the conduct of gaming on licensed premises have not been required to complete any form of training on the responsible service of gambling. Staff can play an important role in reducing the potential harm of gambling in the community by being able to identify problem gambling, and by understanding its causes and the most effective means of managing it within their work environment. For this reason, responsible service of gambling training is proposed to be made mandatory for persons who carry out employment roles related to the conduct of gambling in hotels and clubs.

Offence for Minors to Gamble

Gambling activities have the potential to cause harm in the community if not appropriately regulated. It is essential to protect the vulnerable, such as minors, from such harm. Accordingly, all the Gaming Acts (excluding the *Charitable and Non-Profit Gaming Act 1999*) contain provisions making it

an offence for a person to allow a minor to participate in a gambling activity. However, the maximum penalty for this offence is not consistent across the different Gaming Acts.

The *Gaming Machine Act 1991* (Gaming Machine Act)*, Casino Control Act 1982* (Casino Control Act)*, Keno Act 1996* (Keno Act) and *Interactive Gambling (Player Protection) Act 1998* (Interactive Act) also contain provisions making it an offence for minors to gamble. The onus is placed on the minor not to gamble by penalising a minor who is found to be gambling. However, the maximum penalty for this offence differs across these Acts. In addition, the *Lotteries Act 1997* (Lotteries Act) and *Wagering Act 1998* (Wagering Act) do not contain corresponding offence provisions for a minor who participates in gambling activities under these Acts.

A consistent approach to the regulation of gambling offences related to minors is desirable to aid the awareness of industry and the community as to what constitutes unacceptable behaviour and the consequences of non-compliance with the offence provisions. To rectify inconsistencies between the Gaming Acts, it is proposed to amend the Lotteries Act and the Wagering Act making it an offence for minors to participate in gambling activities. It is proposed that the maximum penalty for this offence under these Acts will be aligned with the maximum penalty for the same offence in the Gaming Machine Act. The Casino Control Act and Keno Act are also proposed to be amended to align the maximum penalty for minors who participate in gambling with the maximum penalty in the Gaming Machine Act for the same offence.

The penalty in the Keno Act for a person who allows a minor to gamble is 20 penalty units, which is significantly lower than other Gaming Acts such as the Lotteries Act and Wagering Act, where the penalty is 40 penalty units. The Gaming Acts have traditionally had a higher penalty for operators who allow a minor to gamble than they do for minors who gamble, as operators as adults should have more responsibility for their actions. As the penalty in the Keno Act for minors who gamble is increased to 25 penalty units, the penalty for operators who allow them to gamble is proposed to be increased to 40 penalty units.

Card-based Gaming

Throughout Australia, the gaming industry is increasingly adopting card-based gaming and other emerging cashless gaming technology. Card-based gaming technologies have the potential to minimise harm from

gambling by providing for pre-commitment technologies that allow players to manage expenditure and time by setting pre-determined limits. While it also has the potential to increase convenience and ease of use for recreational gamblers, and reduce costs for venues, the Queensland regulatory framework and technical requirements ensures there is an appropriate balance. For example, the card-based system cannot over-ride any regulatory limit such as the $5 maximum bet limit set for clubs, and hotels and jackpot wins over $250 must be paid by cheque.

Trials of the technology have been undertaken at two clubs and evaluations conducted. Results showed that there was overall support for the card-based system by the venues, players and system suppliers. Players found the card system easy to use, preferred the voluntary nature of the limits, and those who voluntarily set limits found they were able to better manage and control their gambling behaviour.

The chief executive has granted technical approval for both trialled card-based gaming systems and they can now be implemented in clubs and hotels throughout Queensland, subject to venues accepting the new system. While the Gaming Machine Act currently provides for card-based gaming, legislative amendments are required before card-based gaming can be extended to casinos, as the Casino Control Act does not provide for such technology.

Removal of Gaming Rules from Subordinate Legislation

The Queensland Government has identified a need to continue improving on the delivery of government services and reduce red tape to address business sector and broader community concerns. This has led to the establishment of the Service Delivery and Performance Commission (SDPC). A key recommendation of the SDPC in its paper entitled 'Review of Legislative/Regulatory Reform Initiatives in the Queensland Governments – Phase 1' suggests each government agency assess the functional arrangements for administering, developing and reviewing legislation within their agency. The former Office of Liquor, Gaming and Racing (now part of the Department of Employment, Economic Development and Innovation) prioritised a review of rules for the conduct of gaming (rules) in Queensland with a view to removing rules from subordinate legislation as a key strategy to improve service delivery and reduce red tape.

The removal of rules from subordinate legislation will also support the recommendation of the former Department of State Development that all

Queensland Government departments consider alternatives to prescriptive regulation in its paper entitled 'Guidelines on Alternatives to Prescriptive Regulation'. It is also consistent with the 10 February 2006 Council of Australian Governments agreement on regulatory reform which included strengthening gate-keeping requirements for new legislation, undertaking annual targeted reviews to reduce the level of existing regulation, and adopting a common framework for benchmarking, measuring and reporting on the regulatory burden across government.

Currently, rules are required to be made as subordinate legislation under the Casino Control Act, Wagering Act, Lotteries Act, Keno Act, *Charitable and Non-Profit Gaming Act 1999* (Charitable Act) and the Interactive Act. Information contained in rules is primarily of a commercial and technical nature forming detailed terms and conditions between gaming operator and player. These matters are not usually contained in legislation and are difficult and costly to maintain as subordinate legislation. Queensland, Northern Territory and Western Australia are the only Australian jurisdictions that currently have rules as subordinate legislation.

Amending the Gaming Acts (except for the Gaming Machine Act) to allow rules to be made by the Minister and gazetted rather than to be made as subordinate legislation will reduce the drafting processes and therefore decrease the time required to make a new rule, reducing the burden on operators that are waiting for the new rule to be finalised and approved. This is particularly important for games across multiple jurisdictions such as national lotto.

Rules will continue to be subject to Ministerial approval to ensure decisions on new gaming products are consistent with the Government's overall policy direction for gambling in Queensland. Matters that are more appropriately dealt with as subordinate legislation will be prescribed by regulation.

Provision for P&F Associations to Conduct Category 3 Games

Section 39 of the Charitable Act provides that incorporated eligible organisations and Parents and Citizens Associations (P&Cs) may conduct category 3 games (art unions). P&Cs are incorporated bodies and relate exclusively to state schools. Parents and Friends Associations (P&Fs) which exist in the private school sector are not incorporated in their own right (though their head body may be incorporated). Representatives from P&F Associations advised that based on legal advice, P&Fs are encouraged not to incorporate in their own right, to facilitate easier operation in the

GST environment. As a result, P&Fs are unable to conduct art unions games in their own right under the Charitable Act. Therefore, amendment is proposed to the Charitable Act to allow for P&Fs associated with non-state schools to be applicants for an art union, to align it with current provisions for P&Cs associated with state schools.

Sale of Queensland Approved Lottery Products outside of Queensland

The Golden Casket Lottery Corporation Limited (Golden Casket) received approval from the Government to distribute Queensland approved instant scratch-its (ISIs) to Queensland, the Northern Territory, Tasmania and the Australian Capital Territory. As a result, in those jurisdictions, players will be able to participate in the Queensland ISI games. They will also be participating in common prize pools for those games.

Queensland ISIs have already been distributed to the Northern Territory and Tasmania and administrative agreements with both jurisdictions have been entered into that allow for remittance of relevant taxes, how unclaimed prizes are to be dealt with, handling of complaints and other matters deemed necessary for the proper regulation of the distribution of ISIs and other lotteries to those jurisdictions. An arrangement with the Australian Capital Territory has not been able to proceed as it was unwilling to accept the sale of ISIs in its jurisdiction until legislative amendments were made. Consequently, the necessary amendments are proposed to be made to the Lotteries Act.

Criminal History Reporting

Ensuring probity of licensed persons is a key regulatory strategy in maintaining the integrity of the gaming industry in Queensland. Criminal history checks ensure the suitability of persons in the gaming industry. They are currently conducted on an application for a new licence, or renewal of an existing licence under any of the Gaming Acts. The chief executive can seek criminal checks on currently licensed persons under the various Gaming Acts.

In the past, the chief executive had access to the Queensland Police Service (QPS) database which enabled criminal history checks to be conducted easily. On 1 June 2007, the chief executive's access to the QPS crime reporting database was removed.

It is imperative that the criminal history of relevant persons (i.e. licensed persons, associates, and departmental gaming officers) is monitored to maintain the integrity of the gaming industry. The Gaming Acts provide

for action to be taken against licensed persons if they are indicted on particular criminal charges. The Gaming Acts also place an onus on licensees and other persons involved in gaming to advise the department of convictions for indictable offences, however many fail to report adverse changes to their criminal history. To ensure the chief executive is aware of changes to the criminal history of relevant persons QPS recommended the chief executive amend the Gaming Acts, excluding the Charitable Act, to require the Commissioner of Police to notify the chief executive when the criminal history of a gaming person of interest changes.

Note Acceptors

An amendment is proposed to the Casino Control Act and the Gaming Machine Act which will allow a regulation to prescribe a maximum denomination of currency that can be inserted into a note acceptor in a gaming machine note acceptor in a casino, club or hotel.

Minor Amendments to Gaming Acts

Some minor amendments are required to increase the clarity and effectiveness of the Gaming Acts, which are outlined in the Achievement of the Objectives and Notes on Provisions sections.

Amendments to the Liquor Act

A recommendation of the 17-Point Brisbane City Safety Action Plan in 2005 was to review the Liquor Act. Extensive consultation with industry and the community was conducted in 2006 and a liquor reform framework, including legislative reform, was developed. Subsequently, the Liquor Reform in Queensland information paper outlining a new legislative framework was released to the public on 2 December 2007.

On 10 September 2008, the *Liquor and Other Acts Amendment Act 2008* (LOAAA) was passed by Parliament. The LOAAA implemented recommendations arising from the review of the Liquor Act, including enhancement of the role of harm minimisation and increasing administrative efficiency. The reform implementation process has provided an opportunity to further review certain industry activities against the new harm minimisation risk framework so as to ensure, consistent with government policy, regulation is appropriate and minimises burdens on industry and the community. Consequently, a number of amendments to the Liquor Act were identified to improve regulatory effectiveness.

Approved Managers Presence During Early Extended Trading Hours

As a consequence of the LOAAA, licensees are required to have an approved manager on-site or reasonably available during ordinary trading hours, and on-site during extended trading hours, including any approved extended trading hours prior to 10am. Most licence types can be granted extended trading hours of 9am to 10am. It is also possible for certain licence types to be granted extended trading hours of 7am to 9am. These early trading periods are considered to pose much less risk than the post midnight to 5am trading period. During the implementation of the LOAAA, it was identified that the requirement for an approved manager to be present during early extended trading hours places a significant burden on industry. To reduce this burden, this requirement is proposed to be removed and approved managers, licensees and permittees will only be required to be reasonably available during early extended trading hours (as is the situation during ordinary trading hours of 10am-midnight). However, the chief executive may place a condition on the licence that an approved manager, licensee or permittee must be present during early extended trading hours if a significant risk to the community is identified.

Definition of 'Reasonably Available'

'Reasonably available' is defined in the Liquor Act as the licensee, permittee or approved manager being readily contactable by each person involved in the service or supply of liquor at the premises and the time reasonably needed for the licensee, permittee or approved manager to travel to the premises being not more than one hour. During the implementation of the LOAAA, it was identified that the requirement to have at all times a licensee, permittee or approved manager able to travel to the licensed premises within one hour can be highly onerous on industry, particularly for small businesses and those located in regional areas where there is a lack of available staff. Licensed premises in regional areas may have a very small staff complement and the licensee and employees may have to travel considerable distances to access amenities such as shops and medical services. To reduce the burden on industry, it is proposed to amend the definition of reasonably available to allow the chief executive to vary the period of time reasonably needed for a licensee, permittee or approved manager to travel to the premises, if a licensee can demonstrate that the one hour time qualification imposes an unnecessarily high regulatory burden, and is not warranted based on a risk assessment of the premises.

Review of Approved Extended Trading Hours

Following the removal of provisions to renew approval to trade beyond 3am in the LOAAA, licensees may be under the impression that approved extended trading hours are a right and not able to be revoked. An amendment is proposed to be made to the Liquor Act to clarify that the chief executive has the ability to review approved extended trading hours of licensed premises. The ability to trade extended hours is a privilege extended to licensees who can demonstrate that they can operate their businesses in a lawful and responsible way. The amendment will ensure that licensees are aware that there is no permanent right to trade during extended hours and that the chief executive may remove the privilege if they fail to comply with legislation.

Exemption from the 3am Lockout during Gold Coast Motor Carnival

The 3am lockout for licensed premises was introduced in 2006, following concern over the level and escalation of violence in and around venues late at night. There is an exemption in the Liquor Act from the application of the lockout for the Gold Coast during the motor carnival weekend (often referred to as "Indy"). Based on the finding of a Regulatory Impact Statement and requests from the Gold Coast Council, citing alcohol misuse as a problem, it is proposed that the exemption be removed.

Staged Payments of Liquor Licence Fees

Liquor licensees have experienced difficulty in paying their licence fee by the due date where they have been adversely affected by exceptional circumstances such as a natural disaster or other hardship caused by exceptional circumstances beyond their control. Under the Liquor Act, non-payment of licence fees by the due date causes licence suspension, with the licensee unable to operate. If the payment is not made in a further 28 days, the licence is cancelled. To give more flexibility as to how the legislation is imposed on licences, an amendment is proposed to be made to the Liquor Act to allow the chief executive to approve a schedule of instalments, which are to be made after the prescribed due date, if the licensee is affected by exceptional circumstances (but not financial hardship) outside of their control. If instalments are approved, the licence will not be suspended or cancelled if payments are made as per the schedule.

Amendments to the Racing Act

Control Bodies

On 4 December 2008, amendments to the Racing Act were passed by the Legislative Assembly and commenced on 30 January 2009, which require wagering operators to obtain an authority from the Queensland control bodies (Queensland Racing Limited, Greyhounds Queensland Limited and Queensland Harness Racing Limited) and pay a fee to use Queensland race information.

To assist the control bodies to protect the integrity of the Queensland racing industry, it is proposed to give the control bodies the power to obtain information from the holder of a race information authority. The information may only be used by the control body for the purpose of monitoring wagering activity relevant to the race information authority to detect and investigate possible breaches of the rules of racing and if necessary, prosecute licensees responsible for those breaches.

Currently, the control bodies can only require this information from wagering operators that they license, by imposing a condition on the licence. The Queensland control bodies cannot require interstate and international wagering operators (that are not licensed by the control bodies) to provide this information.

The Daubney-Rafter Report of the Queensland Thoroughbred Racing Inquiry identified the need for access to information about who is placing wagers and the need to analyse wagering markets as a vital tool for racing control bodies. This information is crucial to identifying possible manipulation of race results and putting together a case against those licensees who may be party to corrupting race results or wagering markets.

Amendments are therefore required to be made to the Racing Act to give control bodies the power to obtain information from the holder of a racing information authority and to require the holder of an authority to be subject to a wagering monitoring system.

An Offence Under Section 113C to be an Indictable Offence

Section 113C of the Racing Act makes it an offence for a licensed wagering operator to use Queensland race information without a race information authority, with a maximum penalty for a second or subsequent offence of five years imprisonment or 4000 penalty units. An offence under section 113C is currently a summary offence. Pursuant to section 552H of the *Criminal Code 1899* (Criminal Code), a person convicted

summarily of an indictable offence is only liable to a maximum period of imprisonment of three years. Accordingly, the existing provision does not reflect the requirements of the Criminal Code. Also, prosecutions under section 113C are likely to be complex in nature and may involve licensed wagering operators that are large corporations that may operate outside of Queensland, including outside Australia.

An amendment is therefore proposed to be made to the Racing Act to make it an indictable offence for a licensed wagering operator to use Queensland race information without a race information authority.

Amendments to the Residential Services Act

The Residential Services Act commenced in 2002 to regulate the quality of services provided in the residential services industry, including building standards and food service standards, by registering and accrediting services and service providers. The residential services industry includes aged rental schemes, supported accommodation and boarding houses, all of which had previously been largely unregulated. Of particular concern has been the quality of food services provided in these schemes. Traditionally these schemes are run on a low-profit margin, and as the operator must use the modest rent received to cover the cost of both accommodation and daily meals, the quality of these meals may suffer as a result.

Although it was always intended that aged rental schemes be covered by the Residential Services Act, currently there is ambiguity as to whether or not the Residential Services Act covers aged rental schemes. It is now apparent that at the time of drafting there was not a full appreciation of the ownership and management structures being used by the businesses involved in these schemes. Consequently, the definitions for 'residential service' and 'service provider' were designed to cover business entities in which the accommodation and food services are provided by the same person, not different persons.

Achievement of the Objectives

Gaming Acts

The objectives will achieve the following:

- Impose a cap on club gaming machines which will limit the number of gaming machines in the community. The cap is imposed by creating the concept of entitlements. A set number of entitlements are prescribed for the State, which cannot be exceeded. A club will need

to acquire an entitlement for each gaming machine installed or operating on their licences premises. Entitlements will be obtainable through a reallocation scheme and authorised sales. Entitlements will also be able to be transferred from a licence to a new licence if a club moves premises because of exceptional circumstances or if there is a liquor licence transfer for the premises.

- Manage demand for gaming machines in clubs by allowing for a market-based transfer scheme to reallocate gaming machine entitlements between clubs without exceeding the cap. The scheme will allow for permanent and temporary transfers which are organised by clubs and approved by the Queensland Gaming Commission (Commission). Only clubs with less than thirty entitlements will be able to temporarily transfer out entitlements. All clubs will be able to temporarily transfer entitlements in. Clubs will first require approval from the Commission to increase the number of gaming machines, or be granted a new licence, before they can acquire entitlements, through either a permanent or temporary transfer. Requirements to complete Community Impact Statements, and all other approval procedures that existed in legislation prior to this Bill, will need to be satisfied before licensees can access entitlements through the transfer scheme.

- Improve protections for the vulnerable, such as minors and persons who have experienced problems with their gambling, through the following:

  — Amendments to the Gaming Machine Act, Casino Control Act, Keno Act, Wagering Act and Interactive Act to make distribution of promotional materials to excluded persons an offence and prescribe a maximum penalty of 40 penalty units for non-compliance. Compliance will be monitored via departmental audit and inspection and action on personal grievance reports from patrons.

  — Amendment to the Lotteries and Wagering Act to provide for a new offence for minors who participate in gambling activities under those Acts.

  — Amendments to the Keno Act and Casino Control Act to align the penalty for a minor who participates in gambling activities with the Gaming Machine Act.

— Amendment to the Keno Act to increase the penalty for a Keno operator who allows a minor to gamble to align it with the penalty for the same offence in the Wagering Act and Lotteries Act.

- Make responsible service of gambling training mandatory for all hotel and club staff involved in the provision of gambling related services. This will ensure persons in gambling related employment roles are aware of their responsibilities to deliver gambling services in a manner which minimises potential harm to individuals and the community as a whole. The amendments will also ensure trainers who deliver approved responsible service of gambling courses have the appropriate knowledge and expertise, and that they conduct the courses in an effective manner.

- Allow for the uptake of new gambling technologies to accommodate new games, and potentially allow for the inclusion of pre-commitment technologies in casinos through amendments to the Casino Control Act.

- Increase probity measures to ensure the integrity of gambling through amendments to the Gaming Acts (except the Charitable Act) that requires the QPS to proactively advise the chief executive of changes in the criminal history of persons involved in the gaming industry.

- Reduce administrative inefficiencies in the regulatory scheme and the regulatory burden on industry through the removal of rules from subordinate legislation through amendments to the Gaming Acts (except the Gaming Machine Act). These legislative amendments will commence on proclamation so that the rules remain as subordinate legislation until a review is completed. This will ensure that any provisions related to the objectives of the relevant Gaming Act, policy objectives of the Government, and matters that are of such a public interest that a high level of regulatory control is required, will remain in subordinate legislation, by being placed in a regulation.

- Provide for lottery products approved in Queensland to be sold in other jurisdictions through an amendment to the Lotteries Act.

- Provide for a maximum currency denomination that can be inserted into a gaming machine note acceptor in Queensland to be prescribed in a regulation.

- Ensure the effectiveness of the Gaming Acts by making a number of minor amendments to remove unnecessary provisions, correct inconsistencies and clarify meaning. These amendments are:
  - The removal of a redundant provision in the Lotteries Act which requires the chief executive approve lottery ticket prices;
  - Amend an inconsistency in the Gaming Machine Act regarding the transfer of hotel gaming machine operating authorities associated with liquor licence transfers;
  - Clarify in the Gaming Machine Act that the chief executive should have regard to, but not be bound by, a guideline in making a recommendation.

Liquor Act

The objectives will achieve the following:

- Reduce administrative inefficiencies in the regulatory scheme and the regulatory burden on industry through the removal of the requirement in the Liquor Act for approved managers, licensees and permittees to be present during early extended trading hours unless a risk assessment identifies that their presence is warranted.
- Increase the flexibility of regulation through:
  - Provision for the chief executive to vary the one hour travel time constraint in the definition of 'reasonably available';
  - Provision for the chief executive to approve instalments for liquor licensees whose ability to pay by the due date is adversely affected by exceptional circumstances such as natural disasters.
- Minimise the potential for harm in the community from liquor by:
  - The removal of the exemption from the 3am lockout provision for the Gold Coast during the Gold Coast Motor Carnival;
  - Clarifying to liquor licensees that extended trading hours are a privilege which may be reviewed at any time, and removed if the licensee is not complying with legislation which includes, but is not restricted to:
    - The use of the licensed premises, or if the behaviour of the persons entering or leaving the licensed premises is causing undue annoyance or disturbance to persons living, working or doing business in the neighbourhood of the premises;

— The licensee is not ensuring liquor is supplied and promoted in a way that is compatible with minimising harm from the use of liquor and preserving the peace and good order of the neighbourhood of the premises;

— The licensee engages in a practice or promotion that may encourage rapid or excessive consumption of liquor.

- Ensure the effectiveness of the Liquor Act by making a number of minor amendments to remove unnecessary provisions, correct inconsistencies and clarify meaning. These are:

  — An amendment to clarify that the Commercial and Consumer Tribunal (which will soon become the Queensland Civil and Administrative Tribunal) may review a decision of the chief executive in relation to extended trading hours.

  — An amendment to reinsert a safeguard that was inadvertently removed in the LOAAA. This safeguard ensures that applicants for the transfer of a licence cannot appoint an approved manager and commence trading before the transfer is approved and becomes unconditional.

  — An amendment to clarify that a temporary authority to operate a licence can be granted only to persons who are not prohibited from obtaining a licence or permit.

  — An additional transitional administrative provision, similar to section 290, to change extended hours permits that authorise trading on a regular basis to 'extended trading hours approvals', as was intended in the LOAAA.

  — A number of minor amendments to terminology and sequencing to ensure clarity and consistency within the Liquor Act.

Racing Act

The objectives will achieve the following:

- Assist the control bodies to protect the integrity of racing by requiring licensed operators who hold a race information authority to provide information to control bodies; and

- Make the offence of using Queensland race information without an authority, which is currently a simple offence, an indictable offence.

Residential Services Act

The amendments will amend the definitions for 'residential service' and 'service provider' and add a definition for 'aged rental scheme'. These amendments will provide certainty to the registration and accreditation of aged rental schemes. This will ensure that residents of these schemes are covered by the Residential Services Act. The Residential Services Act provides for minimum standards for these services, including building and fire safety standards and food services standards. The quality of food services in these schemes has been of particular concern. Many of the residents of these schemes are vulnerable persons, being on fixed incomes (old age pensions) with limited other accommodation options.

Alternatives to the Bill

- Previously, operators that directed gambling related promotional materials to persons they knew were excluded from their venue breached a voluntary Code of Practice. If a venue was found to be distributing advertising or promotional material to excluded persons, the peak industry body was contacted and notified. The peak body then undertook an internal process to inform the venue they have contravened the Code of Practice and the actions needed to rectify the problem. If the licensee continued to fail to comply with the Code of Practice then this was be recorded by the chief executive and may have adversely affected future applications by the licensee. Without the force of law, this process was limited in its effectiveness and some venues kept persons on their mailing lists, despite that person being excluded from that venue. For this reason, the legislation is proposed to be amended to make it an offence for a gambling operator to direct gambling related promotional material to a person known to the operator as excluded from the operator's venue.

- Provision already exists in the Liquor Act for the chief executive to take disciplinary action against licensees that do not comply with legislation, including the removal of extended trading hours. However, the provisions relating to approved extended trading hours (section 84), disciplinary action against licensees (section 136) and obligations of licensees and permittees relating to the service, supply and promotion of liquor (section 148) are located in different sections of the Act. To ensure that licensees clearly understand their obligations in trading outside ordinary trading hours and the

consequences if they do not, a clarifying provision has been added to section 84.

- All other objectives can only be achieved by legislative enactment.

Estimated Cost for Government Implementation

Gaming Acts

- The reallocation scheme for club gaming machines will have associated expenditure, as resources are required to develop and administer the processes necessary to allow for the effective implementation of the scheme. On the introduction of a cap and reallocation scheme for hotels in 2003, section 322 of the Gaming Machine Act was amended to provide that an amount multiplied by the total number of operating authorities, is withheld from gaming tax. This amount is retained as a controlled receipt of the department rather than paid into the Community Investment Fund. The amount is used to offset the extra costs incurred by the regulator in the ongoing administration of the hotel scheme. As the club cap and entitlement reallocation scheme will incur similar costs, section 322 will be amended to also withhold a similar additional amount from gaming tax payable into the Community Investment Fund in order to meet the costs of maintaining the cap and reallocation scheme. Further costs will be offset by the charge of fees for the processing of applications associated with the reallocation scheme.
- The mandatory responsible service of gambling training course will have associated expenditure related to its administration. However, costs will be offset by the charge of fees for the processing of applications. Any additional expenditure associated with implementation of the amendments will be met through existing budget allocations.
- The removal of the Rules from subordinate legislation is likely to cause a reduction in expenditure, as Rules will be no longer drafted through the Office of Queensland Parliamentary Counsel.
- Any additional expenditure associated with implementation of the amendments will be met through existing budget allocations.

Liquor Act

- Provision has been made in the Liquor Act for persons to appeal decisions by the chief executive to vary the travel time constraint for

the definition of 'reasonably available' and to allow for staged payments of liquor licence fees after the due date. Appeals will be made to the Commercial and Consumer Tribunal (which will shift to the Queensland Civil and Administrative Tribunal on 1 December 2009). Some additional Government expenditure will be required to administer any appeals that are made. As the number of appeals relating to these decisions is not expected to be significant, it is anticipated that any additional expenditure will be met through existing budget allocations.

- Any additional expenditure associated with implementation of the amendments will be met through existing budget allocations.

Racing Act

There is no administrative cost to Government in implementing the proposed amendments to the Racing Act.

Residential Services (Accreditation) Act 2002

There are no financial considerations as aged rental schemes were always intended to be covered by the Residential Services Act. The Residential Services Accreditation Branch, within the Office of Fair Trading, already has staff and necessary systems to register and accredit residential services. No additional resources will be required to register and accredit aged rental schemes.

Consistency with Fundamental Legislative Principles

Two potential fundamental legislative principles issues have been identified.

Retrospective Effect of Amendments

Relevant principle: legislation should not adversely affect rights and liberties or impose obligations retrospectively (section 4(3)(g) of the Legislative Standards Act 1992).

Amendments to the Gaming Machine Act provide for the allocation of entitlements, which enable the cap to be set in place and allow for the reallocation scheme. Allocation of entitlements will be based on the date of commencement of the moratorium on the release of club gaming machines on 16 April 2008. Consequently, under the new transitional provisions, entitlements will not be allocated for gaming machines that are approved from applications received by the chief executive on or after 16

April 2008. Clubs that have approval for gaming machines from such applications cannot install or operate gaming machines until they obtain entitlements either through the reallocation scheme or an authorised sale, which will not be made available until the commencement of the relevant provisions contained in this Bill.

Therefore, while the provisions that allow for the initial allocation of entitlements do not commence retrospectively, their application has a retrospective effect by preventing clubs from installing or operating gaming machines that they received approval for prior to commencement of provisions providing for the reallocation scheme and authorised sales. This is a potential inconsistency with fundamental legislative principles. Under section 4(3)(g) of the *Legislative Standards Act 1992*, legislation should not adversely affect rights and liberties or impose obligations retrospectively. However the public announcement on 17 April 2008 to impose the club gaming machine moratorium made clubs aware of this situation. As a result, the impact of the retrospective effect of the amendments has been greatly reduced.

Applications received on or after 16 April 2008 are being processed by the department and decided upon by the Commission. However, a provision (section 455) is included that provides a safeguard that no action may be taken against the State, departmental officer or commissioner as a result of action or non-action regarding an application for a new category 2 licence, additional premises or increase in approved gaming machines for a category 2 premises.

Removal of Gaming Rules from Subordinate Legislation

Relevant principle: *subordinate legislation contain matters appropriate to subordinate legislation* (*section 4(5)(c) of the Legislative Standards Act 1992)*

The gaming rules, once removed from subordinate legislation, will not be subject to Parliamentary scrutiny. In the past, the Scrutiny of Legislation Committee has commented adversely on provisions allowing matters, which it might reasonably be anticipated would be dealt with by regulation, to not be processed through the tabling and disallowance provisions of the *Statutory Instruments Acts 1992*.

However, it is considered that the divesting of the rule-making power to the Minister is an appropriate authorisation. The rules which will be removed from subordinate legislation primarily contain matters of a commercial and technical nature that are developed and initiated largely by gaming

operators as terms and conditions for engaging in the conduct of gaming. These are not matters that would normally be contained in legislation and are difficult to draft into legislative form. Queensland, the Northern Territory and Western Australia are the only Australian jurisdictions that currently have rules as sub-ordinate legislation.

Reference can therefore be made to section 4(5)(c) of the *Legislative Standards Act 1992* which states subordinate legislation should only contain matters 'appropriate to subordinate legislation'. Given that, as outlined above, the contents of the rules which are intended to be removed from subordinate legislation are not appropriate for subordinate legislation, the removal of these matters from subordinate legislation is considered an action consistent with the *Legislative Standards Act 1992*.

Importantly, it should be noted that rules relating to the objectives of the Gaming Acts, policy objectives of Government, and matters that are of such significance as to be in the public interest will not be included in the new version of the rules (which will not be subordinate legislation) and instead will be incorporated into other instruments of subordinate legislation (regulations). These matters will be identified as part of a review of gaming rules, currently being undertaken. The amendments to remove the rules will commence on proclamation, only after matters deemed to be appropriate to subordinate legislation have been made as a regulation. It is intended that the new version of rules (which will not be subordinate legislation) will only consist of commercial and technical matters regarding the conduct of gaming.

Consultation

Gaming Acts

Government

Consultation has been undertaken on the amendments to the Gaming Acts with all relevant Government agencies and departments, including the Department of the Premier and Cabinet, Treasury Department and the Department of Justice and Attorney-General. As a result of consultation with the Treasury Department, a Public Benefit Test has been undertaken for aspects of the club gaming machine reallocation scheme to review policies that have national competition policy implications.

Consultation has been undertaken with the Northern Territory, Tasmanian and the Australian Capital Territory Governments on the sale of Queensland lottery products in their jurisdictions.

Industry

Consultation on the club gaming machine reallocation scheme has been undertaken with the club industry peak body and with representatives from individual clubs. The development of elements of the scheme has been shaped by this consultation.

Consultation has been undertaken with registered training organisations regarding the implementation of the mandatory responsible service of gambling training.

Consultation has been undertaken with the sole licensee for lottery products in Queensland, Golden Casket, on all amendments to the Lotteries Act.

Liquor Act

Government

Consultation has been undertaken on the amendments to the Liquor Act with all relevant Government agencies and departments, including the Department of the Premier and Cabinet, Treasury Department and the Department of Justice and Attorney-General.

Industry

Consultation has been undertaken with peak industry bodies on amendments to decrease the regulatory burden.

Community

The removal of the 3am lockout exemption during the Gold Coast Motor Carnival is a result of consultation with community groups and the Gold Coast City Council.

Racing Act

Government

Consultation has been undertaken on the amendments to the Racing Act with all relevant Government agencies and departments, including the Department of the Premier and Cabinet, Treasury Department and the Department of Justice and Attorney-General.

Industry

Consultation has been undertaken with the control bodies, Queensland Racing Limited, Queensland Harness Racing Limited and Greyhounds Queensland Limited.

Residential Services Act 2002

The Residential Tenancies Authority and Queensland Health were consulted on the amendments to the Residential Services Act. External consultation was conducted with major industry stakeholders, who represent the majority of aged rental schemes in Queensland.

Notes on Provisions

Part 1 Preliminary

Clause 1 sets out the short title by which the Act will be known.

Clause 2 provides for commencement of the amendments contained in the Bill. Clauses 6, 16, 19, 21, 23, 24(1), 25 to 39, 41 to 43, 45, 46, 48 (other than to the extent it inserts section 456), 52, 53, 56, 57, 88, 89, 108 and 109 commence on a day to be fixed by proclamation.

These clauses amend the Gaming Acts to provide for the club gaming machine cap and reallocation scheme, mandatory responsible service of gambling training, and the removal of rules for the conduct of gaming from subordinate legislation. The club gaming machine cap and reallocation scheme amendments will commence on proclamation to allow time for details of the cap and scheme to be prescribed in a regulation.

The mandatory responsible service of gambling training will commence on proclamation to allow time for necessary technical details to be prescribed in a regulation. The removal of rules from the conduct of gaming from subordinate legislation will commence on proclamation to enable a review to be conducted of the rules.

Rules relating to the objectives of the relevant Gaming Act, policy objectives of Government and matters that are of such significance as to be in the public interest will not be removed from subordinate legislation but will rather be transferred to another instrument of subordinate legislation (a regulation). Once this review is complete and the necessary provisions are

placed in a regulation, the amendments removing the rules from subordinate legislation will commence on proclamation.

Section 49 will commence on the day following the day on which the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009*, section 559 commences.

Part 2 Amendment of Casino Control Act 1982

Clause 3 provides that the Act amended in part 2 is the *Casino Control Act 1982*

Clause 4 inserts a new section 17 providing for the commissioner of the police service to notify the chief executive if there is a change in the criminal history of a casino key employee, casino employee, casino operator who is an individual, or an individual associated or connected with the operations of a casino.

Clause 5 inserts 'player account credits' into section 62A(4) to allow for credits to provide that a casino operator cannot use player account credits in the operation gaming equipment outside the casino.

Clause 6 omits section 63(3) and inserts new sections 63(3), 63(3A), 63(3B) and 63(3C) providing for the Minister to notify the making of a rule in the gazette, when the rule takes effect, that the chief executive must make a copy of the rule available on the internet, and that a casino licensee may make submissions to the Minister about a rule or proposed rule.

Clause 7 amends section 65(3) so that gaming wagers must be placed by the use of chips, cash, player account credits or another way approved by the chief executive. It also amends section 65(5) so that a casino operator must ensure that all winning wagers are paid either in chips, cash or cheque, a deposit to a person's player account or another way approved by the chief executive.

Clause 8 amends section 67, omitting references to 'deposit advance accounts' and replacing them with 'player accounts'. Subsection (2B) is inserted to provide that the casino operator must not accept a deposit into a player account by a credit card transaction. The clause also amends section 67(3) and inserts new section 67(4) to provide for the casino to pay a

person for whom a player account is established cash up to the amount in the account or if requested by the person issue a cheque made payable to the person that is drawn on a bank account approved by the chief executive.

Clause 9 amends section 71A by removing a reference to deposit 'advance account' and replacing it with 'player account.'

Clause 10 inserts a new section 100E which makes it an offence for an operator or manager of a casino to distribute or authorise the distribution of promotional or advertising material about the casino to a person who is excluded from the casino as a result of a self-exclusion order or an exclusion direction. The maximum penalty for not complying is 40 penalty units.

Clause 11 amends section 102(2), providing for an increase in the maximum penalty for a minor who is found in a casino during the hours of operation of the casino on any day. The maximum penalty is increased from 10 penalty units to 25 penalty units.

Clause 12 amends section 127 to provide that the chief executive may also make regulations about tournaments for games, the naming of a game or wager, the permissible minimum and maximum wager for a game, and the maximum denomination of currency that may be inserted in a note acceptor in a casino.

Clause 13 inserts definitions for player account, player account credit and note acceptor into the Schedule.

Part 3 Amendment of Charitable and Non-Profit Gaming Act 1999

Clause 14 provides that the Act amended in part 3 is the *Charitable and Non-Profit Gaming Act 1999.*

Clause 15 inserts a new section 39(c) (previous section 39(c) becomes section 39(d)). The new section 39(c) provides for a parents and friends association formed for a non-state school to be able to apply for category 3 gaming licence, in the same way that a parents and citizens association formed for a state school may apply under section 39(b).

Clause 16 omits section 72(2) and inserts new sections 72(2), 72(3) and 72(4) providing for the Minister to notify the making of a rule in the gazette, when the rule takes effect, that the chief executive must make a copy of the rule available on the internet.

Clause 17 inserts new regulation making powers so that a regulation may also be about an advertisement for a game, refunding a fee paid to enter a game, the order of drawing two or more prizes offered in a game, or a prize in a game.

Part 4 Amendment of Gaming Machine Act 1991

Clause 18 provides that the Act amended in part 4 is the *Gaming Machine Act 1991*.

Clause 19 inserts a new section 32(4) which provides for a person to appeal to the Queensland Gaming Commission against a decision by the chief executive to not grant or not renew or cancel an approval to be trainer of an approved responsible service of gambling training course.

Clause 20 inserts a new section 53(A) providing for the commissioner of the police service to notify the chief executive if there is a change in the criminal history of a departmental gaming officer, a licensed person, a licensee who is an individual, or an associate of a licensee who is an individual.

Clause 21 inserts a new section 55H(4) which provides that section 55H(3) does not apply to applications under sections 56B(1) and 56B(2), which allow a category 2 licensee to apply for a gaming machine licence for a replacement category 2 premises.

Clause 22 amends the heading for section 56A so that it reads, 'application for gaming machine licence for replacement category 1 licensed premises'.

Clause 23 inserts a new section 56B to allow for applications for a gaming machine licence for a replacement category 2 licensed premises. The new section has a similar effect for category 2 licensees as section 56A has for category 1 licensees. Under section 56B(1), a category 2 licensee who surrenders their old licence for a single category 2 premises and may apply, because of exceptional circumstances, for a new licence in place of the old

licence for a new category 2 premises, in which all entitlements for the premises to which the old licence relates are transferred to the new premises to which the new licence relates. Section 56B(2) has a similar effect as section 56B(1) but relates to a licence which is for more than one category 2 premise. The licensee may surrender their licence and apply, because of exceptional circumstances for a new licence where one of the premises under the old licence has been replaced with new premises, and in which all entitlements from the old premises are transferred to the new premises.

Clause 24 amends section 57(3) which provides for a recommendation by the chief executive to the Queensland Gaming Commission regarding the chief executive's satisfaction that there are exceptional circumstances for the transfer of entitlements to new premises under section 56(B). It also amends section 57(7) and omits section 57(8)(ba). This amendment clarifies that the chief executive is guided but is not bound by the guidelines in making a recommendation to the Queensland Gaming Commission.

Clause 25 amends section 59 by inserting additional paragraphs in section 59(2) which allows the commission to fix the number of entitlements to be transferred to the premises for an application made under section 56B. It also inserts new section 59(6) which provides that the chief executive must immediately give the applicant written notice of the decision on the number of entitlements fixed by the commission for the premises.

Clause 26 inserts a new paragraph in section 61(2) which provides that the application for additional licensed premises may be made for a premises to which the applicant has made a liquor licence transfer application relating to a community club licence.

Clause 27 inserts paragraph (e) in section 68(2) which provides for particulars relating to entitlements which must be included on a category 2 licence issued by the chief executive. Existing paragraph (e) becomes paragraph (f).

Clause 28 inserts a new section 71A(7) which provides for particulars relating to entitlements which must be included on a replacement category 2 licence issued by the chief executive.

Clause 29 amends sections 78(4), 78(5) and 78(7) (which had been 78(6)) and inserts new section 78(6). The amendment to section 78 provides for the transfer of entitlements from a cancelled category 2 gaming machine

licence to the new category 2 gaming machine licence for premises to which a liquor licence transfer application relates.

Clause 30 inserts a new section 78A. The new section provides for a liquor licence transfer application for premises which the Queensland Gaming Commission is prepared to approve as an additional premises under a category 2 licence. Subsection (7) allows for the transfer of entitlements from the cancelled associated gaming machine licence to the gaming machine licence for which the premises to which the liquor licence transfer application relates is approved as an additional premises.

Clause 31 inserts a new section 80C. The section ensures that a category 2 licensee cannot install or operate at any premises under their licence more gaming machines than the total number of entitlements endorsed for the premises under the licence, plus any entitlements that are currently transferred from another category 2 licensed premises as part of a temporary transfer under part 3B, division 3, or minus and entitlements that are currently transferred to another category 2 licensed premises as part of a temporary transfer under part 3B, division 3. This new section ensures that there is a cap on the number of gaming machines in the State. The number of gaming machines a licensee can install or operate on a category 2 premises is limited by the number of entitlements endorsed for the premises and any entitlements that may be temporarily transferred from another category 2 premises. Subsection (2) provides for entitlements that are currently transferred to another category 2 licensed premises as part of a temporary transfer under part 3B, division 3. These entitlements remain endorsed for the licensee's licensed premises under the licence, but cannot be installed or operated while they are temporarily transferred to another licensed premises.

Clause 32 inserts new section 83(3A) which provides that the Queensland Gaming Commission cannot approve an increase in approved gaming machines if the applicant has any entitlements endorsed for the premises to which the application relates temporarily transferred to another club under part 3B, division 3.

Clause 33 inserts sections 86(1A), 86(1B), 86(1C) and 86(4A). Subsection (1A) provides that a category 2 licensee cannot apply for a decrease in the approved number of gaming machines if any entitlements are temporarily transferred under part 3B, division 3, to the premises to which the application relates. Subsections (1B) and (1C) provide that an application for a decrease in the approved number of gaming machines cannot apply to gaming machines to which the entitlements are the subject of a temporary

transfer under part 3B, division 3, to another licensed premises. Subsection (4A) provides that an inspector cannot make a report recommending the approval of gaming machines for a licensed premises be decreased under section 86(3)(b) if the entitlements for the relevant gaming machines are the subject of a temporary transfer under part 3B, division 3, to another licensed premises.

Clause 34 inserts sections 87(9), 87(10) and 87(11). Subsection (9) provides for the transfer of entitlements after a decrease proposal is approved for a category 2 premises. The entitlements for that premises that are in excess to the number of approved gaming machines for the premises as a result of the decrease, must be transferred on a permanent basis within one year of the decrease being approved by the chief executive. Subsection (10) provides that if the entitlements mentioned in subsection (9) are not transferred within one year, they become entitlements of the state. Subsection (11) provides for a transfer of entitlements mentioned in subsection (9) that has been submitted for approval to the chief executive within one year of the decrease approval, but the Commission does not make a decision on the transfer until after one year has elapsed since the decrease approval. In this situation, the entitlements do not become entitlements of the state if they are transferred within 14 days of the transferor licensee being notified by the chief executive of the approval of the transfer.

Clause 35 inserts sections 91A(3), 91A(4), 91A(5) 91A(6) and 91A(7). Subsection (3) provides for the transfer of entitlements after a licensee ceases the conduct of gaming on licensed premises under section 91(2). The entitlements for that premises must be transferred on a permanent basis within one year of the licensee notifying the chief executive of the ceasing of gaming at the premises. Subsection (4) provides that if the entitlements mentioned in subsection (3) are not transferred within one year, they become entitlements of the state. Subsection (5) provides for a transfer of entitlements mentioned in subsection (3) that has been submitted for approval to the chief executive within one year of the licensee ceasing the conduct of gaming at the premises, but the Commission does not make a decision on the transfer until after one year has elapsed since the notification. In this situation, the entitlements do not become entitlements of the state if they are transferred within 14 days of the transferor licensee being notified of the approval of the transfer by the chief executive. Subsections (6) and (7) provides for any entitlements that are temporarily transferred either by or to a club where the conduct of gaming has ceased. The temporary transfer of the entitlement ends when

the licensee notifies the chief executive of the ceasing of gaming at the premises.

Clause 36 makes a minor amendment to section 95(1)(b) to clarify that this paragraph relates to category 1 premises. It inserts new sections 95(2D), 95(2E), 95(2F), 95(2G) and 95(2H). Subsection (2D) provides for the transfer of entitlements after a surrender of a category 2 licence. The entitlements for the premises to which the licence relates, must be transferred on a permanent basis within one year of the decrease being approved by the chief executive. Subsection (2E) provides that if the entitlements mentioned in subsection (2D) are not transferred within one year, they become entitlements of the state. Subsection (2F) provides for a transfer of entitlements mentioned in subsection (2D) that has been submitted for approval to the chief executive within one year of the surrender, but the Commission does not make a decision on the transfer until after one year has elapsed since the surrender. In this situation, the entitlements do not become entitlements of the state if they are transferred within 14 days of the transferor licensee being notified by the chief executive of the approval of the transfer. Subsection (2G) provides for a surrender of a category 2 licence, and one of the premises to which the licence relates is party to a temporary transfer, either as a transferor club or a transferee club. In this situation, the transfer ends on the day of the surrender.

Clause 37 inserts new words into the heading for section 95A so that it now reads 'Surrender of gaming machine licence being replaced, category 1 licensed premises'. The clause also replaces section references in sections 95A(2) and 95A(3) to align with amendments within this Bill.

Clause 38 inserts new section 95B which provides that certain provisions under section 95 for the surrender of a licence do not apply if an application is made under section 56B for a gaming machine licence for a replacement category 2 licensed premises. Sections 95(2D), 95(2E), 95(2F), 95(5) and 95(9) do not apply. Subsections (3) and (4) apply only in relation to the surrender. Despite sections 95(10) and 95(11), the surrender does not have effect until the new licence is issued by the chief executive under section 68.

Clause 39 inserts two new paragraphs in section 97(24), amending the definition of 'directly interested person' so that if a category 2 licensee's licence is cancelled or suspended and the licensee is party to a temporary transfer either as a transferor licensee or transferee licensee, then the other licensee that is party to the transfer is a directly interested person.

Clause 40 inserts a reference to section 79(2) into section 109C(3) to clarify that if an operating authority is transferred to a person by operation of section 79(2), the person is not taken to have purchased the operating authority (as with operating authorities transferred by operation section 78(5).

Clause 41 inserts a new part 3B which provides for entitlements for category 2 premises. An entitlement is the right to install or operate a gaming machine on category 2 premises. The concept of an entitlement has been developed to ensure that demand for gaming machines is managed without increasing the number of gaming machines operating in the State. For this reason, there are a set number of entitlements in the State as prescribed in a regulation. The number of gaming machines a licensee can install or operate on a category 2 premises is dependent, by operation of the new section 80C, on the number of entitlements either permanently endorsed or temporary attached to the premises. The new part also provides for a reallocation scheme for entitlements which allows for transfers of entitlements between category 2 premises, either permanently or for a temporarily period of up to 8 years. An agreement to transfer entitlements is made between two category 2 premises and approved by the Commission. The part comprises the following divisions:

- Division 1, comprising of sections 109J and 109K, provides for the maximum number of entitlements that are declared to exist and that entitlements can be transferred to another category 2 premises if the Commission approves the transfer.
- Division 2 provides for the permanent transfer of entitlements:
  - — Section 109L defines key terms in the division.
  - — Section 109M provides for applications for approval by a category licensee 2 licensee (transferor licensee) for the transfer of entitlements from a premises (transferor licensed premises) under the licensee's licence to another category 2 licensed premises (transferee licensed premises) on a permanent basis. As the transfer is between two category 2 licensed premises, the transfer may be between two premises to which a single category 2 licence relates or the transfer may be between two premises to which two different category 2 licences relate. The Commission must grant the application if the requirements in sections 109N, 109O, and 109P are satisfied. The Commission must refuse the application if the requirements in sections 109N, 109O, and 109P

are not satisfied. The chief executive must provide a written notice to the transferor licensee stating the decision and the reasons for the decision.

— Section 109N provides for any consideration for the transfer, which must be monetary and must not give the transferor licensee any interest in, percentage or share of money bet for gaming or revenue from gaming on the transferee licensed premises. The section provides that the price of entitlements may not be more than or less than an amount, if any, prescribed under a regulation. This provision is to ensure that entitlement prices do not either become unaffordable for most clubs or lose too much value as a result of the market. The maximum price is intended to ensure that entitlements will not become affordable only to a small number of clubs, effectively closing the reallocation scheme to the majority of other clubs. The minimum price is intended to be a safeguard to ensure that clubs feel secure to invest in entitlements without fear that their investment will lose all its value. A limit on maximum or minimum prices for entitlements as stated in this provision is intended to be only prescribed in a regulation in the event that market forces adversely affect a majority of clubs' ability to participate effectively in the reallocation scheme.

— Section 109O sets out requirements about the transferor licensed premises which must be satisfied before the Commission can approve a permanent transfer of entitlements. These are:

- The chief executive must have granted a decrease in approved gaming machines under section 86, and the decrease must be equal to or more than the number of entitlements which are to be transferred; or
- The transferor licensee must have surrendered their licence and the endorsed number of entitlements for the premises must be equal to or more than the number of entitlements which are to be transferred; or
- The transferor licensee must have given the chief executive notice that the conduct of gaming has ceased at the transferor licensed premises and the endorsed number of entitlements for the premises must be equal to or more than the number of entitlements which are to be transferred.

— Section 109P sets out requirements about the transferee licensed premises which must be satisfied before the Commission can approve a permanent transfer of entitlements. The section limits the number of entitlements that may be transferred to a transferee licensee premises to ensure the State-wide cap is not exceeded and the transferee licensed premises does not acquire, through the transfer, more entitlements than the number of gaming machines it is approved to operate. The transferee licensed premises must be located in the same entitlement region in which the transferor licensed premises are located. This is to ensure entitlements do not become concentrated in particular areas of the State.

— Section 109Q provides for a variation of terms of a transfer before the transfer has taken place. The Commission must grant or refuse the application dependent on whether the requirements mentioned in section 109N are satisfied. The chief executive must provide the transferor licensee with a written notice stating the decision and the reasons for the decision.

— Section 109R provides for the issue of replacement gaming machines licences to show the new endorsed number of entitlements for the premises under the licence after a permanent transfer.

• Division 3 provides for the temporary transfer of entitlements. A temporary transfer does not affect the number of entitlements endorsed on a licence for a category 2 premises, but it does affect the operation of gaming machines for those entitlements. Any entitlements temporarily transferred to another premises under this division remain endorsed for the transferor licensed premises, but gaming machines subject to the entitlements cannot be operated on those premises. For the period of the transfer the entitlement is temporarily attached to the transferee licensed premises and gaming machines subject to the entitlements may be installed or operated at the transferee licensed premises. If the transfer ends, for any reason, the entitlement becomes no longer temporarily attached to the transferee licensed premises, and gaming machines subject to the entitlements can no longer be installed or operated at the premises. Once the entitlement is no longer temporarily attached to the transferee licensed premises due to the end of a transfer, the gaming machines subject to the entitlements may be installed or operated at

the transferor licensed premises. Division 3 comprises of the following sections:

— Section 109S defines key terms in the division.

— Section 109T provides for applications for approval by a category 2 licensee (transferor licensee) for the transfer of entitlements from a premises (transferor licensed premises) under the licensee's licence to another category 2 licensed premises (transferee licensed premises) on a temporary basis. As the transfer is between two category 2 licensed premises, the transfer may be between two premises to which a single category 2 licence relates or the transfer may be between two premises to which two different category 2 licences relate. The Commission must grant the application if the requirements in sections 109U, 109V, and 109W are satisfied. The application must be in the approved form. The form must state that the temporary transfer of entitlements will end if either the transferee licensee's licence or transferor licensee's licence is cancelled or surrendered, or the transferee licensee or transferor licensee ceases gaming at the premises to which the transfer relates.

— Section 109U provides that a temporary transfer must be for at least one year and for no more than 8 years. There is no provision for a renewal. If the two parties to the transfer wish to extend the temporary transfer beyond 8 years they will need to apply for approval of a new transfer under this part. Any consideration for the transfer, which must be monetary, may be limited by a regulation. This limitation is to ensure that entitlement prices do not either become unaffordable for most clubs or lose too much value as a result of the market. The maximum price is intended to ensure that entitlements will not become affordable only to a small number of clubs, effectively closing the reallocation scheme to the majority of other clubs. The minimum price is intended to be a safeguard to ensure that clubs feel secure to invest in entitlements without fear that their investment will lose all its value. A limit on maximum or minimum prices for entitlements as stated in this provision is intended to be only prescribed in a regulation in the event that market forces adversely affect a majority of clubs' ability to participate effectively in the reallocation scheme. In addition, the terms of transfer must not give the transferor licensee any interest

in, percentage or share of money bet for gaming or revenue from gaming on the transferee licensed premises.

— Section 109V sets out requirements about the transferor licensed premises which must be satisfied before the Commission can approve a temporary transfer of entitlements. The approved number of gaming machines for all licensed premised to which the transferor licensee's licence relates must be less than 30. This limits transferor licensed premises for temporary transfers to small clubs, providing an additional source of revenue for these clubs and encouraging diversity within the club industry. The licensee must not have been granted a new licence or approved additional premises, unless granted in association with a liquor licence transfer, or an increase in approved gaming machines for the premises in the last three years. This prevents clubs from applying for a new licence or increase on the sole basis of transferring them out temporarily. The premises must not be a transferor licensed premises or transferee licensed premises in another temporary transfer. This limitation on the number of temporary transfers a transferor club may enter into at one time is to ensure the temporary transfer scheme does not over-ride the primary purpose of a gaming machine, which is to conduct gaming.

— Section 109W sets out requirements about the transferee licensed premises which must be satisfied before the Commission can approve a temporary transfer of entitlements. The section limits the number of entitlements that may be transferred to a transferee licensee premises to ensure the State-wide cap is not exceeded and the transferee licensed premises does not acquire, through the transfer, more entitlements than the number of gaming machines it is approved to operate. The transferee licensed premises must be located in the same entitlement region in which the transferor licensed premises are located. The limitation of transfers to between premises within the same entitlement region is to ensure entitlements do not become concentrated in particular areas of the State. The transferee licensed premises cannot be a transferor licensed premises in another temporary transfer. This limitation on the number of temporary transfers a transferor club may enter into at one time is to ensure the temporary transfer scheme does not over-ride the primary purpose of a gaming machine, which is to conduct gaming.

— Section 109X provides for a variation of terms of a transfer. The Commission must grant or refuse an application dependent on whether the requirements mentioned in section 109T are satisfied. The chief executive must provide the transferor licensee with a written notice stating the decision and the reasons for the decision.

— Section 109Y provides for the issue by the chief executive of replacement gaming machines licences to show the number of entitlements for the transfer licensed premises that have been transferred by the transferor licensee to the transferee licensee on a temporary basis.

— Section 109Z requires both the transferor licensee and the transferee licensee to maintain a register at the licensed premises stating the details of any temporary transfer of the entitlements that is current for the licensed premises.

• Division 4 provides for entitlements of the state, which are entitlements controlled by the state for administrative purposes. All entitlements that are not entitlements of a licensee are an entitlement of the state:

— Section 109ZA sets out how an entitlement of a licensee becomes an entitlement of the state.

— Section 109ZB provides that no compensation is payable to a person because an entitlement becomes an entitlement of the state.

— Section 109ZC provides for how an entitlement of the state may be sold, which will be in a manner prescribed in a regulation.

— 109ZD provides that a person can only purchase entitlements at an authorised entitlement sale if they are a category 2 licensee and the premises for which the entitlement is purchased is in the same entitlement region for which the authorised sale is conducted. The section limits the number of entitlements that a category 2 licensee may purchase to ensure the State-wide cap is not exceeded and the licensee does not acquire, through the authorised sale, more entitlements than the number of gaming machines it is approved to operate. The category 2 licensee must be located in the same entitlement region for which the authorised entitlements sale is conducted. Limiting the sale of

entitlements to licensees in particular regions is to ensure entitlements do not become concentrated in particular areas of the State. A maximum penalty applies of 200 penalty units if a person does not comply with provisions in this section.

— 109ZE provides for any amount received for an entitlement at any authorised entitlement sale must be paid into the Community Investment Fund.

- Division 5 provides for miscellaneous provisions necessary to ensure the effective administration of entitlements and their transfer:

  — Section 109ZF provides that an entitlement cannot be encumbered.

  — Section 109ZG provides for the replacement of a licence by the chief executive and the details to be included on the replacement licence if there is a change in the number of entitlements endorsed for the licence other than for a permanent transfer.

  — Section 109ZH provides for the replacement of a licence by the chief executive and the details to be included on the replacement licence if there is a decrease in the number of entitlements temporarily transferred or a temporary transfer ends. Both licensees that are party to the temporary transfer must submit their licence for replacement to the chief executive.

  — Section 109ZI provides that a temporary transfer ends if a controller (under section 9 of the *Corporations Act*) is appointed in relation to the property of the transferee licensee.

  — Section 109ZJ provides that the chief executive must review the operation of provisions of the Act relating to entitlements to ensure that operation of these provisions are effective in maintaining the cap and providing for an efficient transfer of entitlements between category 2 premises.

Clause 42 amends 189 to provide that sections 189(1) and 189(2) are subject to the new section 189A which relates to a requirement to hold a current responsible service of gambling training course certificate in order to carry out gaming duties or tasks on licensed premises.

Clause 43 inserts new section 189A which provides that a person must not carry out gaming duties or gaming tasks unless the person holds a current responsible service of gambling training course certificate (certificate) or was only employed to carry out gaming duties or tasks in the last three

months. A person must not employ or cause another person to employ or allow an employee to carry out gaming duties or gaming tasks unless the person holds a certificate or was only employed to carry out gaming duties or tasks in the last three months. A maximum penalty of 40 penalty units will apply for non-compliance. Subsection (5) requires a licensee to keep a register containing the information prescribed under a regulation about certificates held by persons carrying out gaming duties or tasks on the premises. This register must be kept available for inspection by an inspector at the premises. A maximum penalty of 40 penalty units will apply for non-compliance. Subsection (6) provides for key definitions in the section.

Clause 44 inserts a new section 261L which makes it an offence for a licensee to distribute or authorise the distribution of promotional or advertising material about licensed premises to a person who is excluded from the licensed premises as a result of a self-exclusion order or an exclusion direction. The maximum penalty for not complying is 40 penalty units.

Clause 45 amends section 322(3A) to provide that an amount (prescribed under a regulation), multiplied by the total number of entitlements, is withheld from gaming tax. This amount is retained as a controlled receipt of the department rather than paid into the Community Investment Fund. This amount will offset additional ongoing administrative costs associated with the entitlement reallocation scheme for clubs in relation to reconciling and approving of transfers of entitlements, administration of temporary transfers, systems changes and increased audit activity. A similar provision already exists in section 322(3A) to offset the cost of the operating authority reallocation scheme for hotels.

Clause 46 inserts a new part 10A which provides for trainers for approved responsible service of gambling training course. The new part contains:

- Division 1 contains a definition for part 10A, comprising of section 337A which states that an approval in this part means approval as a trainer for the approved responsible service of gambling training course.
- Division 2 provides for the approval process for trainers:
    - — Section 337B provides that the chief executive may approve a course as an approved responsible service of gambling course if the chief executive is satisfied the course gives adequate instruction about the responsible service of gambling.

— Section 337C provides for applications for approval as a trainer for the approved responsible service of gambling training course. Applications must be made to the chief executive in the approved form, accompanied by a prescribed fee and any relevant documents which will allow the chief executive to make a decision on the application.

— Section 337D provides for the chief executive to decide on an application made under section 337C. The chief executive may refuse or grant the application as soon as possible after receiving the necessary information required under section 337C. The chief executive must be satisfied the applicant has the necessary expertise or experience to conduct the training course before granting the application. In addition, the chief executive may also consider the applicant's knowledge of the Act, experience in the gambling industry and if the applicant has been a licensee or licensed person, their conduct in discharging their duties in this role. A person may be an organisation such as a registered training organisation. In such cases, the chief executive may consider the experience in the gambling industry, expertise in conducting training courses, knowledge of the Act and conduct as a licensee or licensed person of individuals within the organisation in order to make a decision whether to grant or refuse an application under this section.

— Section 337E provides for the chief executive's grant of an application made under section 337C. The chief executive must give the applicant written notice of the decision stating the term of the approval. The approval remains in force for a period stated by the chief executive in the notice, which can be no longer than 3 years.

— Section 337F provides for the chief executive's refusal of an application made under section 337C. The applicant must be provided with an information notice of the decision as soon as possible.

• Division 3 provides for the renewal process for approval to be a trainer of an approved responsible service of gambling training course:

— Section 337G provides for applications for renewal of approval as a trainer for the approved responsible service of gambling training course. Applications must be made to the chief

executive in the approved form, accompanied by a prescribed fee and any relevant documents which will allow the chief executive to make a decision on the application.

— Section 337H provides for the chief executive to decide an application made under section 337G. In making a decision the chief executive may have regard to the same matters that may be regarded under section 337D. In addition, the chief executive may have regard for the applicant's previous conduct in discharging their duties as an approved trainer of the approved responsible service of gambling course.

— Section 337I provides for the chief executive's renewal of approval for an application made under section 337G. The chief executive must give the applicant written notice of the decision stating the term of the renewed approval. The renewed approval remains in force for a period stated by the chief executive in the notice, which can be no longer than 3 years.

— Section 337J provides for the chief executive refusal to renew an application made under section 337G. The applicant must be provided with an information notice of the decision as soon as possible.

— Section 337K provides for approval to continue in force after the day it is due to end if the person makes a renewal application within the 3 months prior to the last day of the term of the approval. The approval will remain in force until the day the chief executive either renews the approval or gives the applicant an information notice stating that the chief executive refuses to renew the approval, or the person withdraws the renewal application, or the application lapses under 337L, or the approval is cancelled under division 5.

• Division 4 provides for lapsing of an application to be a trainer of an approved responsible service of gambling training course. Section 337L allows the chief executive to make a requirement, stated in writing, that an applicant provide more information in order to decide an application made under 337C or 337G. The applicant must be given at least 21 days to provide the information after the requirement is made. The chief executive may further extend the period if the chief executive is satisfied it would be reasonable in the circumstances

to do so. If the applicant does not comply with the requirement within the stated time, the application lapses.

- Division 5 provides for the chief executive to be able to cancel an approval to be a trainer of an approved responsible service of gambling training course:

  — Section 337M provides the grounds for cancellation. An approval may be cancelled if the chief executive believes on reasonable grounds that the approval was granted in error or because information provided which contributed to the grant of an approval was false. In addition, an approval may be cancelled if the chief executive believes on reasonable grounds that the person to whom the approval relates is not conducting the training course in an appropriate way or no longer has the necessary expertise to conduct the training course.

  — Section 337N provides for the procedure for cancellation of an approval. The chief executive must give the person whose approval is being cancelled a written notice stating that the chief executive proposes to cancel the approval, the grounds for the proposed cancellation, the fact and circumstances which provide the basis for the grounds and that the person may make written representations (in a stated period which must be at least 21 days after the notice is given to the person) to show why the approval should not be cancelled. If, after considering any representations made during the stated period, the chief executive believes there are grounds for the approval to be cancelled, the chief executive may cancel the approval. The chief executive must give the person an information notice stating the cancellation. The cancellation takes effect on the day the notice is given or another day stated in the notice.

Clause 47 amends section 366(2) providing that a regulation may be about the maximum denomination of currency that may be inserted in a [gaming machine] note acceptor on licensed premises.

Clause 48 inserts a new division 14 within part 12, 'Transitionals':

- Section 447 inserts definitions of key terms for the division.
- Section 448 provides for the initial allocation of entitlements at the commencement of the club gaming machine reallocation scheme. One entitlement is allocated for each approved gaming machine for a

category 2 licensed premises on the commencement day (which is the day of commencement of section 447), unless the gaming machine was approved from an application that was received by the chief executive on or after 16 April 2008. If a person became a licensee of a category 2 licensed premises on or after 16 April 2008 as a result of the chief executive making arrangements under section 78 to transfer a liquor licence to the premises and at the same time issue a new category 2 licence for the premises, then entitlements for all gaming machines approved as a result of an application before 16 April 2008 are still allocated to the relevant licensed premises.

- Section 449 provides for allocation of entitlements after the commencement day. If a club made an application, which was received by the chief executive before 16 April 2008, to increase their number of approved gaming machines and the Commission approves the application after the commencement day then an entitlement is allocated for each gaming machine approved by the Queensland Gaming Commission.

- Section 450 provides for a replacement of licences by the chief executive of category 2 licensees who have been allocated entitlements.

- Section 451 provides for the information that the chief executive must state on the licence replaced in section 450.

- Section 452 provides that the Commission cannot approve a transfer of entitlements that were allocated under sections 448 or 449 unless the transferor licensee has installed or operated on their licensed premises all their approved gaming machines. This provision ensures that licensees cannot transfer to another club entitlements for approved gaming machines that have never been installed or operated on the premises for which they have been approved.

- Section 453 provides for the lapse of a category 2 licence granted between 16 April 2008 and the commencement day. If a category 2 licence is granted, the licensee has 2 years (or another period fixed by the Commission) under section 80A to install or conduct gaming with the number of gaming machines fixed by the Commission for the licensed premises to which licence relates before the licence lapses. This will allow sufficient time for licensees to obtain entitlements before their licence lapses.

- Section 454 provides for the lapse of an approval to increase gaming machines at a licensed premises granted between 16 April 2008 and the commencement day. If an increase is granted, the licensee has 1 year (or another period fixed by the Commission) under section 85AA to install or conduct gaming with the number of gaming machines fixed by the Commission in approving the increase for the licensed premises to which the increase approval relates before the approval lapses. This will allow sufficient time for licensees to obtain entitlements before their approval lapses.

- Section 455 removes the requirement that the Commission will not approve a temporary transfer if the transferor licensee has been either granted a new licence, additional premises, or an increase for the transferor licensed premises, if the licensee was notified of approval of the new licence, additional premises, or increase on the grant of a valid application. The three year constraint on transfer of entitlements after an approval for a gaming machine is to ensure clubs do not seek approvals for the purposes of obtaining and then temporarily transferring out entitlements. The intention is to ensure the temporary transfer scheme does not over-ride the primary purpose of a gaming machine, which is to conduct gaming. However, clubs that were granted approvals prior to the announcement of the moratorium on the release of gaming machines are exempted from this constraint as they were unaware of the announcement of the moratorium and reallocation scheme therefore would only have been applying for an increase in gaming machines to conduct gaming. Paragraph (b) ensures that the club has installed all gaming machines fixed for the licence before being able to transfer entitlements. This ensures that there is no danger of the licensee transferring entitlements for approved gaming machines which may subsequently lapse under section 80A or section 85AA.

- Section 456 provides protection for the State, departmental officers and commissioners for actions or failure to take actions in relation to applications for new category 2 licences, additional premises or an increase in approved gaming machines for a category 2 premises. This provision mirrors a similar provision in section 400 of the Gaming Machine Act, which was assented to on 2 August 2001 as part of the *Gaming Machine Amendment Act 2001*. The chief executive and the Commission have continued to process applications since the announcement of the moratorium on 17 April 2008. However, the application of section 447, 448 and 449 will mean that

clubs approved for gaming machines from applications received by the chief executive on or after 16 April 2008 will not be able to install or operate gaming machines without obtaining entitlements. This provision is a safeguard to ensure no action can be taken against the State, departmental officers and the Commission for actions taken or not taken prior to the commencement of sections 447, 448 and 449, but after the date in which the moratorium on the release of gaming machines for clubs commenced.

- Section 457 provides for staff in gaming roles in hotels and clubs immediately before the commencement day. To allow for the effective implementation of the mandatory responsible service of gambling training course (RSG training), these persons will not have to complete the RSG training until 1 July 2011.
- Section 458 provides that persons mentioned in section 457 may be able to obtain an extension on the date they are required to complete the RSG training until 1 July 2013 if they can demonstrate that in the 12 months prior to the commencement day they completed one of the two courses from nationally endorsed training packages listed in the section. This provision ensures that persons receive a benefit from voluntarily completing training in the responsible service of gambling in the 12 months prior to RSG training being made mandatory.

Clause 49 amends the schedule (Dictionary) providing for new definitions for the following terms: approved responsible service of gambling training course, authorised entitlements sale, endorsed number, entitlement, entitlement of a category 2 licensee, entitlement of the state, entitlement region, entitlement selling entity, note acceptor, community club licence. The definition for subsidiary operator is also amended by omitting 'special facility licence' and inserting 'commercial special facility licence'. This amendment aligns the Gaming Machine Act with amendments made to the Liquor Act through the *Liquor and Other Act Amendment Act 2008*.

Clause 50 amends section 29 as it will be enforced after the commencement of section 559 of the Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009. The purpose of the amendment is to restore the amendment of the current section 32 made under clause 19 of this Bill.

Part 5 Amendment of Interactive Gambling (Player Protection) Act 1998

Clause 51 provides that the Act amended in part 5 is the *Interactive Gambling (Player Protection) Act 1998.*

Clause 52 omits section 120(2) and inserts new sections 120(2), 120(2A) providing for the Minister to notify the making of a rule in the gazette and when the rule takes effect.

Clause 53 inserts a new section 120A that provides that a licensed provider, for an authorised game that the provider is licensed to conduct, must make a copy of the rules for the game available at the provider's public office and on the internet. Additionally, they must give a copy of the rules for the game to each agent of the provider. The maximum penalty for not complying with this provision is 40 penalty units.

Clause 54 inserts a new section 137L which makes it an offence for a licensed provider to distribute or authorise the distribution of promotional or advertising material about authorised games to persons who are prohibited from participating as a player in the authorised games under a self-exclusion order or an exclusion direction. The maximum penalty for not complying is 40 penalty units.

Part 6 Amendment of Keno Act 1996

Clause 55 provides that the Act amended in part 6 is the *Keno Act 1996.*

Clause 56 omits section 138(2) and inserts new sections 138(2), 138(3) providing for the Minister to notify the making of a rule in the gazette and when the rule takes effect. An additional section 138(4) is inserted providing that a keno licensee may make submissions to the Minister about a rule or proposed rule.

Clause 57 inserts a new section 138A requiring that a keno licensee must, for a keno game conducted under the licence, make a copy of the rules available for public inspection on the internet and give a copy of the rules

for the game to each keno agent of the licensee. The maximum penalty for not complying with this provision is 40 penalty units.

Clause 58 amends section 147 omitting references to 'deposit advance accounts' and inserting 'player accounts'. This amendment makes the terminology in the Keno Act consistent with the Casino Control Act.

Clause 59 inserts a new section 154M which makes it an offence for an appointed agent to distribute or authorise the distribution of promotional or advertising material about the agent's approved place of operation to persons who are prohibited from participating in keno gaming at the approved place of operation under a self-exclusion order or an exclusion direction. The maximum penalty for not complying is 40 penalty units.

Clause 60 amends section 165, amending the maximum penalty for a minor that participates in Keno gaming from 10 penalty units to 25 penalty units.

Clause 61 amends section 166, amending the maximum penalty for a person who allows a minor to take part in keno gaming from 20 penalty units to 40 penalty units.

Clause 62 inserts a new section 240A providing for the commissioner of the police service to notify the chief executive if there is a change in the criminal history of a licensed keno employee, a keno licensee who is an individual, or an individual identified by the Minister as being a business or executive associate of a keno licensee.

Clause 63 amends section 243(2) so that a regulation may also be about establishing and operating a player account, naming a keno wager, drawing a keno game, the abatement of a major prize, refunding an amount wagered on a keno game, or unpaid prize money.

Clause 64 inserts a definition of player account in schedule 4 (dictionary).

Part 7 Amendment of the Liquor Act 1992

Clause 65 provides that the Act amended in part 7 is the *Liquor Act 1992*

Clause 66 amends section 4 (Definitions). The definition of 'disciplinary action' is amended to clarify that disciplinary action may include the cancellation of an extended trading hours approval endorsed on the licence.

The definition of member of a reciprocal club is amended to remove unnecessary terminology.

Clause 67 omits section 4D as it is redundant.

Clause 68 amends section 9 omitting the reference to 'general licence' and inserting 'commercial hotel licence' to reflect the new licensing types that were created through the *Liquor Act and Other Acts Amendment Act 2008*.

Clause 69 inserts new paragraphs in section 21(1) to clarify that the Commercial and Consumer Tribunal (the Tribunal) may review a decision by the chief executive about an extended trading hour approval. It also provides for the Tribunal to review decisions by the chief executive regarding the time period required for an approved manager, licensee or permittee to travel to premises under section 155AD(5)(b) and the payment of a licence fee by instalments under section 209.

Clause 70 amends the example in section 78(2)(c) omitting the reference to 'general licence' and inserting 'commercial hotel licence' to reflect the new licensing types that were created through the *Liquor Act and Other Acts Amendment Act 2008*.

Clause 71 inserts a note in section 84 clarifying that a failure by a licensee to comply with the time or the conditions stated in their extended trading hours approval is, under section 136, a ground for the chief executive to take disciplinary action under section 137.

Clause 72 inserts a new section 88 to clarify that the chief executive may, at any time, review the conduct of a licensee under an extended trading hours approval. If the licensee is not complying with the conditions stated in their extended trading hours approval it is, under section 136, a ground for the chief executive to take disciplinary action under section 137.

Clause 73 amends the sequencing to aid navigation of the Liquor Act.

Clause 74 amends section 103I omitting references to 'extended trading hours permit' and inserting 'extended hour permit' to ensure consistency in terminology in the Liquor Act.

Clause 75 amends section 103J omitting a reference to 'extended trading hours permit' and inserting 'extended hour permit' to ensure consistency in terminology in the Liquor Act.

Clause 76 clarifies that the chief executive may only grant a restricted liquor permit for hours between 10am and 12 midnight.

Clause 77 amends section 106 omitting the reference to 'general licence' and inserting 'commercial hotel licence' to reflect the new licensing types that were created through the *Liquor Act and Other Acts Amendment Act 2008.*

Clause 78 amends section 129 to remove a reference to a club licence, which no longer exists, and replace it with new licence category of community club licence. This clause also inserts a new subsection to section 129 to clarify that persons who are not able to apply for a liquor licence under section 106 also cannot apply for an interim authority to operate a licence under section 129.

Clause 79 amends section 136(1)(a)(iii) clarifying that a failure by the licensee to comply with the times or the conditions stated in the licensee's extended trading hours approval is grounds for disciplinary action relating to the licence.

Clause 80 inserts a safeguard in section 141 that ensures that an applicant for the transfer of a licence cannot appoint an approved manager employed by someone else and commence trading at a particular premises prior to the transfer being approved (therefore before the applicant is actually the licensee for the premises). The amendment ensures that the approved manager must be employed by the licensee for the premises.

Clause 81 removes paragraph (d) from section 142AA(2) removing the exemption from the application of part 5, division 5 for the area of the Gold Coast City Council during a motor racing event under the *Motor Racing Events Act 1990*. As a result, licensed premises in the area of the Gold Coast City Council will be subject to lock-out provisions under section 142AB during a motor racing event under the *Motor Racing Events Act 1990.*

Clause 82 amends section 155 to reflect the new licensing and permit types that were created through the *Liquor Act and Other Acts Amendment Act 2008.*

Clause 83 amends section 155AD, providing for the following:

- Omitting subsections (2) and (3) and inserting new subsections (2) and (3). The new subsection (2) provides that if the licensee or permittee is a corporation then the licensee or permittee must take reasonable steps to ensure that an approved manager is reasonably available during ordinary trading hours and approved extended trading hours between 7am and 10am. The licensee or permittee must take

reasonable steps to ensure an approved manager is present at the licensed premises during approved extended trading hours between 12 midnight and 5am. The new subsection (3) provides that if the licensee or permittee is an individual then the licensee or permittee must be reasonably available or take reasonable steps to ensure an approved manager is reasonably available during ordinary trading hours and approved extended trading hours between 7am and 10am. The licensee or permittee must be present or take reasonable steps to ensure an approved manager is present at the licensed premises during approved extended trading hours between 12 midnight and 5am.

- Inserting new subsections (4A) and (4B) into section 155AD, which provide that the chief executive may impose a condition on a licence that requires that, if the licensee or permittee is a corporation, they must take reasonable steps to ensure an approved manager is present during ordinary trading hours or approved extended trading hours between 7am and 10am if the chief executive is satisfied that this condition is required under section 107C. If the licensee or permittee is an individual the chief executive may impose a condition on a licence that requires that the licensee or permittee must be present or take reasonable steps to ensure an approved manager is present during ordinary trading hours or approved extended trading hours between 7am and 10am if the chief executive is satisfied that this condition is required under section 107C.

- Amending subsection (5), paragraph (b) so that the chief executive may decide to extend the time beyond one hour that is reasonably needed for the licensee, permittee or approved manager to travel from any place at which they may be present to the licensed premises. Subsection (6) is inserted to provide criteria to which the chief executive must have regard to in deciding whether to extend the period of time mentioned in subsection (5).

Clause 84 inserts a new section 209 which provides for the chief executive to approve that a licensee may pay their liquor licence fee through a schedule of instalments after the day prescribed as the due date for payment of fees prescribed in section 208(2). The chief executive may only approve the payment of a licence fee in instalments after the prescribed due date if satisfied that the business conducted under the authority of the licence has been adversely affected by a natural disaster or the licensee has suffered a personal hardship (which does not include financial hardship). If the chief executive approves a payment of the

licence fee through a schedule of instalments after the prescribed due date, any consequences of failing to pay the fee by the prescribed due date, provided for under a regulation, do not apply to the licensee.

Clause 85 inserts new transitional provisions in a new division 10 in part 12. Section 296 inserts key definitions for the division. Section 297 provides for the lapse of extended trading hours permits that extended trading hours on a regular basis. On commencement of this division, the holders of these permits are taken to hold an extended trading hours approval for the equivalent extended trading hours between midnight and 5am that were allowed under the permit. This transitional provision ensures that all approved extended trading hours for liquor licences are administered under part 4, division 7 of the Liquor Act.

Part 8 Amendment of Lotteries Act 1997

Clause 86 provides that the Act amended in part 8 is the *Lotteries Act 1997.*

Clause 87 inserts a new section 7A providing that the chief executive may approve a primary licensee to conduct an approved lottery in another State or foreign country. The chief executive may charge the primary licensee a fee for giving of approval to conduct an approved lottery in another State or foreign country and for any necessary regulation of the licensee's conduct under the Lotteries Act. If approval is given, the Minister may enter into an agreement with the relevant Minister of the other State or foreign country that provides for taxation of lotteries, collaboration between lottery officials and officers in the other State or country engaged in administration of the corresponding law, mutual recognition of licences and administrative Acts, and the sharing of tax revenue derived from lottery. Subsection (4) defines the meaning of relevant Minister and corresponding law.

Clause 88 omits section 121(2) and inserts a new section 121(2) and 121(2A) providing for the Minister to notify the making of a rule in the gazette and when the rule takes effect.

Clause 89 inserts a new section 121A(a) which requires a lottery operator to make a copy of the rules for each lottery stated in the operator's licence available for public inspection at the operator's public office and on the internet.

Clause 90 omits section 126 as this section is no longer necessary. The provision was in place to provide transparency over the price of lottery tickets when the State's sole lottery provider (Golden Casket) was a self-regulated government owned entity. In 1997, Golden Casket was corporatised and the chief executive took over the regulation of lotteries to ensure separation of regulatory functions of the corporation from its commercial functions. The approval of the price of lottery tickets is a commercial function and not considered to be part of the role of the regulator.

Clause 91 inserts a new section 149 which makes it an offence for a minor to participate in a lottery. The maximum penalty for non-compliance is 25 penalty units.

Clause 92 inserts a new section 225A providing for the commissioner of the police service to notify the chief executive if there is a change in the criminal history of a licensed employee, a primary licensee who is an individual, or an individual identified by the Minister as being a business or executive associate of a primary licensee.

Clause 93 amends section 228 so that a regulation may also be about establishing and operating a player account, cancelling a lottery ticket, void lottery tickets, drawing a lottery, and publishing the results of the draw, claiming a prize, distributing a prize pool, or withdrawing unsold lottery tickets or prize payouts.

Clause 94 amends the definition of player account.

Part 9 Amendment of Racing Act 2002

Clause 95 provides that the Act amended in part 9 is the *Racing Act 2002*.

Clause 96 amends the definition for part 6.

Clause 97 inserts new sections 113EA to 113EC. The purpose of these amendments is to assist the control bodies to protect the integrity of racing. New section 113EA imposes standard conditions on all race information authorities which require the holder of an authority to take part in a wagering monitoring system established or nominated by the control body and to comply with requests for information by the control body about bets placed with the holder. New section 113EB limits the purposes for which a

control body can use the documents or information obtained from a wagering monitoring system or from a document or information request to monitoring wagering activity to detect possible breaches of the Racing Act or a control body's rules of racing and to investigate and take enforcement action about possible breaches. This provision does not prevent the control body from providing documents or information to the chief executive or an authorised officer. New section 113EC protects the holder of a race information authority or an employee of the holder from liability civilly, criminally or under an administrative process for providing documents or information by participating in a wagering monitoring system or in response to a document or information request.

Clause 98 amends section 334(2) to make an offence under section 113C, which is currently a summary offence, an indictable offence which is a misdemeanour. Section 113C makes it an offence for a licensed wagering operator to use Queensland race information without a race information authority, with a maximum penalty for a second or subsequent offence of five years imprisonment or 4000 penalty units. Pursuant to section 552H of the *Criminal Code 1899* (Criminal Code), a person convicted summarily of an indictable offence is only liable to a maximum period of imprisonment of three years. The amendment ensures the provision reflects the requirements of the Criminal Code.

Part 10 Amendment of Residential Services (Accreditation) Act 2002

Clause 99 provides that the Act amended in part 10 is the *Residential Services (Accreditation) Act 2002.*

Clause 100 amends section 4 of the Act, which defines a 'residential service', to make it clear that an aged rental scheme is a 'residential service'. In particular, subsection 4(2) has been revised to clarify that an aged rental scheme is a residential service. This makes it clear that business operations meeting the definition for an 'aged rental scheme' in the new section 6A of the Act are to be considered as 'residential services' for the purposes of the Act. All residential services are required to be registered and accredited under the Act.

Clause 101 amends section 6 of the Act, which defines a 'service provider'. This amendment provides that a person conducting an aged rental service, the 'scheme operator', is the 'service provider' for the 'residential service'. Service providers are required to be registered under the Act.

Clause 102 inserts a new section 6A to the Act. The new section 6A defines 'aged rental schemes' and 'scheme operators'. Aged rental schemes are defined as businesses which provide two services: rental accommodation in self-contained units and a food service or personal care service. Aged rental schemes are defined as being mainly occupied by older members of the community or retired persons. Aged rental schemes must provide services to at least four persons. Those persons must occupy at least 2 self-contained units, either separately or jointly. An aged rental scheme must utilise more than one self-contained unit. Self-contained units in aged rental schemes are usually occupied by only 1 or 2 persons. The person providing the aged rental scheme (accommodation and food service / personal care service) is the 'scheme operator'.

Under the new subsection 6A(3), two categories of persons are defined as 'service providers':

— Subsection 6A (3)(a) – The person owns or leases the accommodation (and provides accommodation and a food service / personal care service).

— Subsection 6A(3)(b) – The person acts on behalf of the owner or lessee of the accommodation (and provides accommodation and a food service / personal care service).

— The new subsection 6A(3) is intended to cover those situations whereby the owner / lessee / letting agent provides or arranges for the provision of accommodation and a food service / personal care service to residents.

The service provider may provide the service themselves or arrange for the provision of the service by another person (such as a subcontractor).

Clause 103 amends the heading for part 13 'Transitional' provisions to add provisions for the *Residential Services (Accreditation) Act 2002.* This is to differentiate the transitional provisions that were originally provided on introduction of the Act in 2002 (part 13) from the transitional provisions for amendments to the Residential Services (Accreditation) Act 2002 to be introduced by the Gambling and Other Legislation Amendment Bill 2009 (part 14).

Clause 104 inserts a new part 14 which relates to amendments made to the *Residential Services (Accreditation) Act 2002* by the Gambling and Other Legislation Amendment Bill 2009. Section 199 provides definitions for the part 14 transitional provisions. Section 200 provides that existing residential service providers ('continuing services') must apply for registration by the 'due day', which is 6 months from commencement of part 14. Section 201 provides that sections 187 – 192 (applied provisions) apply to part 14 continuing services.

Section 202 provides that the due date for continuing services to become accredited is one year from the commencement of part 14. Section 203 requires applications for Level 1 accreditation, by part 14 continuing services, to be accompanied by a current building compliance notice and the prescribed fire safety document.

Clause 105 provides that applicants for registration of continuing services under part 14 are interested persons for the purposes of reviewable decisions under Schedule 1.

Clause 106 amends the dictionary.

Part 11 Amendment of Wagering Act 1998

Clause 107 provides that the Act amended in part 11 is the *Wagering Act 1998.*

Clause 108 omits section 198(2) and inserts new sections 198(2) and 198(2A) providing for the Minister to notify the making of a rule in the gazette and when the rule takes effect.

Clause 109 omits section 200 and inserts a new section 200, which requires a general operator to make rules available for public inspection at the operator's office and on the internet.

Clause 110 inserts a new section 216M which makes it an offence for a general operator to distribute or authorise the distribution of promotional or advertising material about the operator's approved place of operation to persons who are prohibited from participating in approved wagering at the approved place of operation under a self-exclusion order or an exclusion direction. The maximum penalty for not complying is 40 penalty units.

Clause 111 inserts a new section 227 which makes it an offence for a minor to participate in approved wagering. The maximum penalty for non-compliance is 25 penalty units.

Clause 112 inserts a new section 308A providing for the commissioner of the police service to notify the chief executive if there is a change in the criminal history of a licensed employee, an authority holder who is an individual, or an individual identified by the Minister as being a business or executive associate of an authority holder.

Clause 113 amends section 312(2) so that a regulation may be about investments, an account in the name of an investor with a licence operator, vouchers for use in place of money to make investments, outcomes of events, payouts, setting aside a portion of the total of all investments made on a totalisator, and distributing or paying the money set aside.