

# Gaming Legislation Amendment Regulation (No. 2) 2013

## Explanatory Notes for SL 2013 No. 212

made under the

***Casino Control Act 1982***  
***Charitable and Non-Profit Gaming Act 1999***  
***Gaming Machine Act 1991***  
***Keno Act 1996***  
***Lotteries Act 1997***  
***Racing Act 2002***  
***Wagering Act 1998***

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## General Outline

### Short title

*Gaming Legislation Amendment Regulation (No. 2) 2013*

### Authorising law

- *Casino Control Act 1982* (Casino Control Act) sections 26, 30 and 127
- *Charitable and Non-Profit Gaming Act 1999* (Charitable and Non-Profit Gaming Act) sections 69 and 186
- *Gaming Machine Act 1991* (Gaming Machine Act) sections 212 and 366
- *Keno Act 1996* (Keno Act) sections 36 and 243
- *Lotteries Act 1997* (Lotteries Act) sections 36 and 228
- *Racing Act 2002* (Racing Act) sections 212 and 355
- *Wagering Act 1998* (Wagering Act) sections 38 and 312

### Policy objectives and the reasons for them

The objectives of the Regulation are to:

Amend the *Casino Control Regulation 1999* (Casino Control Regulation); *Charitable and Non-Profit Regulation 1999* (Charitable and Non-Profit Regulation); *Gaming Machine Regulation 2002* (Gaming Machine Regulation); *Keno Regulation 2007* (Keno Regulation); *Lotteries Regulation 2007* (Lotteries Regulation); *Racing Regulation 2013* (Racing Regulation) and *Wagering Regulation 1999* (Wagering Regulation) to introduce a requirement for the recoupment of costs associated with determining the suitability of persons who seek to gain a significant interest in an entity operating in the gaming industry and certain persons who seek involvement through management or lease agreement.

## **Achievement of policy objectives**

The amendments to Casino Control Regulation; Charitable and Non-Profit Regulation; Gaming Machine Regulation; Keno Regulation; Lotteries Regulation; Racing Regulation and Wagering Regulation introduce a new fee system for investigations into the suitability of persons or entities, who are associated or connected, or to be associated or connected with the ownership, administration or management of the operation or business of a gaming licensee. The investigation fee also applies to persons or entities seeking to enter into a casino lease agreement under section 24 of the Casino Control Act, or a casino management agreement under section 25 of the Casino Control Act.

The fee framework introduces a requirement for the investigated party to pay to the chief executive (or the Commissioner for Liquor and Gaming (Commissioner) under the Gaming Machine Act and Regulation and the gaming executive under the Racing Act and Regulation) all or part of the reasonable costs of the investigation estimated by the chief executive, Commissioner or gaming executive, as relevant, up-front prior to the commencement of the investigation.

The amendments also allow the chief executive, commissioner or gaming executive to require the investigated party to make specified payments towards the cost of the investigation during the course of the investigation if the actual costs exceed the estimated costs.

The amendments require the chief executive, Commissioner or gaming executive to provide the investigated party an itemised account of the costs claimed as soon as practicable after the investigation is finished, and refund any overpayment made, or require, in writing, the investigated party to pay the amount of any shortfall between the amount already paid on the account and the reasonable costs of conducting the investigation, within 28 days after the requirement is made.

For the purpose of an investigation under the Casino Control Act, the amendments provide for an investigation to be finished if the investigated party fails to comply with a written request from the chief executive to provide information or documents that are reasonably necessary for the investigation; and the chief executive considers the investigation is finished. The amendments also provide an investigation is finished if the chief executive considers the investigation has been completed for the Minister's purposes under sections 26(1) and 30(1) of the Casino Control Act.

For the purpose of an investigation under the Charitable and Non-Profit Gaming Act, Gaming Machine Act, Keno Act, Lottery Act, Racing Act and Wagering Act, the amendments provide an investigation is finished if the chief executive, Commissioner or gaming executive considers the investigation has been completed for the chief executive, Commissioner or gaming executive's purpose under the relevant Act section. The amendments also provide for an investigation to be finished if the chief executive, Commissioner or gaming executive considers the investigated party has failed to comply with the requirements of the investigation, under the relevant Act section, and the chief executive, Commissioner or gaming executive considers the investigation is finished.

The written itemised account of the costs claimed by the chief executive, Commissioner or gaming executive, is evidence of the costs in a proceeding to recover the amount of a shortfall between the amount already paid on the account and the reasonable costs of conducting the investigation.

### **Consistency with policy objectives of authorising law**

The regulation is consistent with the main purposes and objects of the Casino Control Act, Charitable and Non-Profit Gaming Act, Gaming Machine Act; Keno Act; Lotteries Act; Racing Act and Wagering Act.

### **Benefits and costs of implementation**

The amendments will allow the Queensland gaming regulator to conduct satisfactory investigations independent of cost restraints and expedite the decision making process for commercially sensitive acquisitions. The new fee system will not affect the Office of Liquor and Gaming Regulation's current probity process and will not introduce any new probity checks.

The proposed fee system will reduce significant costs incurred by the Government in undertaking certain probity investigations, and will ensure these costs are met by the applicant and not the existing licensee. The amendments will increase the efficiency of probity investigations, which will contribute to the revitalisation of Queensland's front-line services.

### **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles as it does not affect the rights and liberties of individuals and does not erode the institution of Parliament.

The Amendment Regulation provides significant administrative powers to the regulator to require the payment of fees estimated by the regulator, in advance, and for that purpose to decide when an investigation is finished. However, these powers are incidental in the final collection of fees, and provision is made for the refunding of any overpayment by the applicant. The Amendment Regulation therefore allows the delegation of administrative power only in appropriate cases and to appropriate persons as the power is fettered by a reconciliation process whereby actual costs are the final determining factor to the calculation of a final invoice or a refund.

Except for the amendments to the Casino Control Regulation, the Amendment Regulation provides that an investigation is finished if the regulator considers the relevant person has failed to comply with a requirement made by the regulator in relation to the investigation, under the relevant Act section.

It is considered appropriate to allow for the regulator to determine whether the provisions have been complied with, for the purpose of deciding whether an investigation is finished, as it is the regulator who conducts the investigation. The Amendment Regulation therefore allows the delegation of administrative power only in appropriate cases and to appropriate persons as providing the regulator with this discretionary power is consistent with the scope of power already provided to the regulator to determine non-compliance with the investigation requirements.

### **Consultation**

The Office of Best Practice Regulation was consulted in relation to the proposed amendments and has confirmed that a Regulatory Impact Statement (RIS) is not required.

Queensland Treasury and Trade was consulted regarding the financial implications of the proposals in the amendment regulation.

The Department of Premier and Cabinet was consulted in relation to the proposal.

Existing gaming licensees were not consulted about the proposed fee system as existing licensees will not be liable to pay. As persons affected by the changes cannot be identified prior to acquiring a relevant interest in, or becoming associated with a gaming licensee, target consultation with these stakeholders was not possible.

### **Commencement**

The Amendment Regulation is to commence on notification.