

Gaming Legislation Amendment Regulation (No. 3) 2022

Explanatory notes for SL 2022 No. 172

made under the

Casino Control Act 1982
Wagering Act 1998

General Outline

Short title

The short title of the amendment regulation is the *Gaming Legislation Amendment Regulation (No. 3) 2022*.

Authorising law

Section 127 of the *Casino Control Act 1982*
Section 312 of the *Wagering Act 1998*

Policy objectives and the reasons for them

The objectives of the *Gaming Legislation Amendment Regulation (No. 3) 2022* (Amendment Regulation) are to:

1. ensure all investigations into the suitability of key persons involved in the management and operations of a casino or a hotel-casino complex are adequately resourced;
2. require casino entities to pay for suitability investigations, rather than using public funds for this purpose; and
3. reduce the 90 day customer verification timeframe in the *Wagering Regulation 1999* (Wagering Regulation) to 72 hours, to align with the Rules published under the *Commonwealth Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) (AML/CTF Rules) about timeframes for verifying a customer's identity for the purposes of opening a betting account.

Background

Amendments to the Casino Control Regulation 1999

The *Casino Control Regulation 1999* (Casino Control Regulation) provides for the reasonable costs of most suitability investigations relating to casino entities and their associates to be recouped by the chief executive. However, the Casino Control Regulation currently exempts existing casino licensees, casino lessees and casino operators from

paying the reasonable costs of an investigation into their *continued* suitability for involvement in the management or operations of a casino or hotel-casino complex. Additionally, the Casino Control Regulation does not expressly permit costs to be recouped for an investigation into an associate of a proposed casino lessee or proposed casino operator.

To reflect the importance that the State and community place on ensuring casinos are conducted with the utmost integrity and fairness, remain free from criminal influence and exploitation and to minimise gambling related harms, it is necessary to amend the Casino Control Regulation to ensure that casino entities and their associates may be required to meet the reasonable costs of all investigations into their suitability to be involved in casino gambling.

Amendments to the Wagering Regulation 1999

The Wagering Regulation contains provisions that deal with the opening and use of an online wagering account with UBET QLD Limited (UBET), the exclusive sport and race wagering licensee in Queensland. The Wagering Regulation requires UBET to verify a new account holders identity within 90 days of the person opening an account.

This provision of the Wagering Regulation is of no effect because the Commonwealth AML/CTF laws require identity to be verified within 72 hours, due to amendments made in May 2022.

This regulation amends the Wagering Regulation to provide for 72 hour CVTs, to align with AML/CTF laws.

Achievement of policy objectives

Amendments to the Casino Control Regulation

The policy objectives are achieved by amending sections 46A and 46B of the Casino Control Regulation so that the requirement to pay costs under section 46A applies to the relevant casino principal (licensee, lessee, or operator) for any investigation the Minister may undertake under sections 20(1), 26(1) and 30(1) of the *Casino Control Act 1982* (Casino Control Act). The Amendment Regulation also clarifies that costs of a suitability investigation in relation to an associate of a proposed casino lessee or operator may be recouped from the proposed casino principal.

The Amendment Regulation also improves the readability of existing section 46B dealing with the process by which the chief executive recoups costs, for example by splitting the provision into three sections and clarifying some of the language.

Amendments to the Wagering Regulation

The policy objectives will be achieved by amending sections 15I and 15IA of the Wagering Regulation to reduce the 90-day period to 72 hours for consistency with the AML/CTF Rules.

Consistency with policy objectives of authorising law

Amendments to the Casino Control Regulation

The Amendment Regulation is consistent with the object of the Casino Control Act. That is, to ensure that, on balance, the State and the community as a whole benefit from casino

gambling (section 3(1)) through the probity of those involved in the conduct of casino gambling (section 3(2)(b)).

The Amendment Regulation achieves this object by ensuring complex investigations into the suitability of key persons involved in the management and operations of a casino or a hotel-casino complex are adequately resourced and paid for by the relevant casino entity or relevant associate.

Amendments to the Wagering Regulation

The Amendment Regulation is consistent with the objects of the *Wagering Act 1998*. That is, allowing wagering subject to a system of regulation and control designed to protect players and the community through minimising the potential for harm from wagering (section 2A(c)).

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Amendments to the Casino Control Regulation

There is no alternative way of achieving the policy objectives without amending the Casino Control Regulation to enable the chief executive to recoup the costs of suitability investigations under the Casino Control Act from the relevant casino principal.

Without the amendments, certain suitability investigations into casino entities and associates would be undertaken at a significant cost to Government, as there would be no legislative basis upon which to recoup the costs.

Amendments to the Wagering Regulation

There are no alternative ways of achieving the policy objective.

Benefits and costs of implementation

Amendments to the Casino Control Regulation

Suitability investigations can be complex – involving large, international and multinational corporations with intricate corporate structures and differences in accounting standards and legal requirements between jurisdictions. To ensure appropriate care and skill is applied, investigations are often outsourced to professional firms or specialist investigators. The cost of some previous investigations undertaken by the Office of Liquor and Gaming Regulation have been over \$500,000.

As suitability investigations are becoming more complex and expensive, it is considered necessary to be able to pass on the costs to casino entities that may be subject to a suitability investigation. In the absence of cost recoupment arrangements, the Government would be required to meet the (often substantial) investigation costs.

Amendments to the Wagering Regulation 1999

The Amendment Regulation will align the Wagering Regulation with the AML/CTF Rules by reducing the 90 day CVT period in the Wagering Regulation to 72 hours.

Consistency with fundamental legislative principles

Amendments to the Casino Control Regulation

Pursuant to section 4(2) of the *Legislative Standards Act 1992* (Legislative Standards Act), legislation should have sufficient regard to the rights and liberties of individuals.

Section 4(3)(a) of the Legislative Standards Act provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. Parliamentary committees have previously considered that, generally, the amount of fees and charges payable by the general public should be fixed by regulation.

If this consideration were applied to casino entities, the Amendment Regulation may be considered inconsistent with section 4(3)(a) of the Legislative Standards Act as it enables the chief executive to issue a notice for payment to a (proposed or existing) casino principal to pay for the costs of a suitability investigation into the casino entity and/or the casino entity's associates, but does not prescribe specific investigation costs.

This approach is necessary because suitability investigations are complex and lengthy undertakings, with variable costs depending on the investigated person's geographical location, global footprint, financial affairs and if relevant, company structure. Often, the actual total cost of a suitability investigation will not be known until the investigation is completed.

The impact on individuals of not prescribing specific costs is minimal. The obligations imposed by the Amendment Regulation are aimed at corporations, as all Queensland casino licensees, lessees, and operators are incorporated entities. The Amendment Regulation provides that the casino principal is ultimately responsible for suitability investigation costs, even if the investigation is into an existing or proposed associate who may be an individual person (noting that the casino principal and the associate may have separate, non-legislated commercial arrangements involving payment of the fees).

Nevertheless, impacts are mitigated by certain provisions in the Amendment Regulation. These include:

- only reasonable costs of an investigation are payable, such as legal, accounting, travel, and staff costs (section 46A(3));
- prior to the commencement of an investigation, the chief executive is permitted to seek an upfront part payment of investigation costs (section 46B(2)); and
- at the conclusion of an investigation, the chief executive must refund any overpayment of the costs or seek the payment of any shortfall (sections 46BA and 46BB).

Consultation

The Office of Best Practice Regulation was consulted and advised that no further regulatory impact assessment was required in regard to the proposed amendments to the Casino Control Regulation. Amendments to the Wagering Regulation are considered machinery in

nature and were therefore subject to agency-assessed regulatory impact assessment exclusions (categories (a) – regulatory proposals that make consequential amendments and (g) – regulatory proposals that are of a machinery nature). Casino entities were invited to comment on the proposed amendments to the Casino Control Regulation but no comments were received.