

Gaming Legislation Amendment Regulation 2022

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Cameron Dick MP, Treasurer and Minister for Trade and Investment provide this human rights certificate with respect to the *Gaming Legislation Amendment Regulation 2022* made under the *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* (Gaming Acts).

In my opinion, the *Gaming Legislation Amendment Regulation 2022*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Gaming Acts regulate gaming in Queensland and contain confidentiality provisions which generally prohibit the disclosure of confidential information gained by a person in performing functions under the Gaming Acts. However, disclosure is permitted in certain limited circumstances. Relevantly, disclosure is permitted if the chief executive administering the Gaming Acts (or in the case of the *Gaming Machine Act 1991*, the Commissioner for Liquor and Gaming) has approved the disclosure of confidential information to an entity prescribed under a regulation.

Under the *Casino Control Regulation 1999*, *Charitable and Non-Profit Gaming Regulation 1999*, *Gaming Machine Regulation 2002*, *Interactive Gambling (Player Protection) Regulation 1998*, *Keno Regulation 2007*, *Lotteries Regulation 2007* and the *Wagering Regulation 1999* (Gaming Regulations), the Office of State Revenue (OSR) is a prescribed entity.

Following an operational integration of OSR and the State Penalties Enforcement Registry functions, OSR has changed its name to Queensland Revenue Office (QRO). Therefore, the *Gaming Legislation Amendment Regulation 2022* amends the Gaming Regulations to replace references to OSR with references to the Commissioner of State Revenue. The role of Commissioner of State Revenue is established under the *Taxation Administration Act 2001* and is therefore less likely to be impacted by any future organisational operating structure changes.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human right under the *Human Rights Act 2019* that is relevant to the *Gaming Legislation Amendment Regulation 2022* is the right to privacy and reputation (section 25).

For the reasons outlined below, I am of the view that the *Gaming Legislation Amendment Regulation 2022* is compatible with this human right.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

(a) the nature of the right

Section 25 of the *Human Rights Act 2019* provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The right protects privacy in the sense of personal information and data collection as well as an individual's private life more generally.

The amendments in the *Gaming Legislation Amendment Regulation 2022* enable the chief executive or Commissioner for Liquor and Gaming to approve the Commissioner of State Revenue, instead of OSR, as an entity that confidential information gained by a person in performing functions under the Gaming Acts may be disclosed to. Confidential information under the Gaming Acts includes information not publicly available about a person's personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background.

Therefore, the *Gaming Legislation Amendment Regulation 2022* may engage the right to privacy to the extent that it contemplates confidential information being disclosed to the Commissioner of State Revenue. However, the amendments in the *Gaming Legislation Amendment Regulation 2022* do not themselves authorise the disclosure of confidential information to the Commissioner of State Revenue as such a disclosure would require approval.

Further, pursuant to section 11 of the *Human Rights Act 2019*, only individuals have human rights. As Queensland's Gaming Acts regulate the gaming industry, if any disclosure of confidential information to the Commissioner of State Revenue were to be approved, it is expected that the information would largely relate to non-individuals, for example such as corporations engaged in a business which operates gaming.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

As OSR has changed its name to QRO, the references to OSR in the Gaming Regulations are redundant. Therefore, the purpose of the *Gaming Legislation Amendment Regulation 2022* is to replace these redundant references to OSR with references to the Commissioner of State Revenue. Therefore the amendments will not expand the circumstances in which information may be shared under the Gaming Acts.

This is necessary as the sharing of information with the Commissioner of State Revenue may be required to facilitate proper administration of the Gaming Acts which provide a framework for the regulation of gaming in Queensland. For example, in addition to generally regulating the gaming industry, the Gaming Acts impose gambling taxes and levies. As part of its broader revenue management functions, QRO is responsible for the collection of these gambling taxes and levies.

As the Gaming Acts aim to ensure that, on balance, the State and community as a whole benefit from gaming, there is public interest in their proper administration.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Replacing references to OSR with references to the Commissioner of State Revenue will ensure that confidential information gained under the Gaming Acts can, with the approval of the chief executive or Commissioner for Liquor and Gaming, continue to be disclosed in the same particular circumstances as currently contemplated.

The Commissioner of State Revenue, as the person responsible for the administration and enforcement of Queensland's tax laws as defined in the *Taxation Administration Act 2001*, was the head of OSR and is now the head of QRO.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive or reasonably available ways to achieve the purpose. As OSR no longer exists, the amendments to the Gaming Regulations are required to maintain the status quo.

While consideration was given to replacing references to OSR with references to QRO, this alternative would not have been any less restrictive on human rights as the Commissioner of State Revenue is the head of QRO.

Importantly, replacing references to OSR with references to the Commissioner of State Revenue does not practically permit the disclosure of confidential information to the Commissioner. Approval will still be required for confidential information to actually be disclosed to the Commissioner of State Revenue.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

Replacing redundant references to OSR is necessary to maintain certain current arrangements and supports the administration of the Gaming Acts. Proper administration of the Gaming Acts contributes to achieving the overarching objective of ensuring that, on balance, the State and community as a whole benefit from gaming in Queensland.

This outweighs any perceived limitation on the right to privacy, particularly given that the amendments in the *Gaming Legislation Amendment Regulation 2022* do not have the practical effect of limiting the right to privacy. That is, the *Gaming Legislation Amendment Regulation 2022* maintains the status quo and no confidential information will be disclosed to the Commissioner of State Revenue as a consequence of the *Gaming Legislation Amendment Regulation 2022* because such disclosure would require approval of the chief executive or Commissioner for Liquor and Gaming. Further, even if approval were to be given, it is expected that the information would largely relate to non-individuals.

(f) any other relevant factors

Not applicable.

Conclusion

I consider that the *Gaming Legislation Amendment Regulation 2022* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

THE HONOURABLE CAMERON DICK MP
TREASURER
MINISTER FOR TRADE AND INVESTMENT

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