

# Gaming Legislation Amendment Regulation (No. 2) 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 Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Gaming Legislation Amendment Regulation (No.2) 2022* (the Amendment Regulation) 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 Amendment Regulation, 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 *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) each contain a schedule of prescribed entities in regard to which the Commissioner for Liquor and Gaming (Commissioner) or chief executive may approve the disclosure of confidential information about a person's personal or business affairs, including their reputation and character, or about a person who makes an application under a gaming Act. Prescribed entities include national and international agencies involved in gambling regulation and enforcement. The schedules facilitate the sharing of information amongst relevant agencies in the course of an investigation into the suitability of that person to be involved in an authorised gambling activity.

The Amendment Regulation updates the schedules of prescribed entities in each gaming regulation to reflect name and function changes, prescribe new regulatory agencies relevant to the subject matter of the primary Act, and remove entities that no longer exist or have merged with entities already prescribed.

Note, the purpose of the Amendment Regulation is to maintain the accuracy of the prescribed entities; it does not alter the existing ability to disclose confidential information.

## Human Rights Issues

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

The Amendment Regulation engages a person's right to privacy and reputation, as protected by section 25 of the *Human Rights Act 2019*.

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

(a) the nature of the right

A person's privacy must not be unlawfully or arbitrarily interfered with, or their reputation unlawfully attacked. The notion of arbitrary interference extends to those interferences which may be lawful, but are unreasonable, unnecessary, and disproportionate.

(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

The Amendment Regulation may limit a person's right to privacy and reputation in so far as it will allow confidential information about a person to be shared between the Queensland gambling regulator and a prescribed regulatory or law enforcement agency. The purpose of the limitation is to obtain information relevant to whether the person is suitable to be involved in the gambling industry so as to protect players and the community from potential harm associated with the industry, a purpose consistent with a free and democratic society based on human dignity, equality and freedom. In part, this protection is achieved through ensuring the probity of those involved in the conduct of gambling by investigating their financial stability, general reputation and character. An arrangement which allows information to be shared about a person's activities in another national or international jurisdiction is a crucial part of any probity suitability investigation.

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

The limitation on a person's right to privacy that allows information to be shared about a person's activities in another national or international jurisdiction, as a crucial part of a probity suitability investigation, is logically consistent with and assists to achieve the purpose of protecting players and the community from potential harm associated with the gambling industry.

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

Each authorising gaming Act provides for the chief executive (or commissioner) to approve the disclosure of confidential information to a stated department, person or other entity at any time. This particular approval process requires that the person likely to be affected adversely by the disclosure be given the opportunity to make a submission about the proposed approval within a period of not less than 14 days.

However, probity investigations to determine the suitability of persons involved in the gambling industry can be time sensitive. In this regard, each gaming Act also provides for regulations to be made to prescribe entities in regard to which the Commissioner for Liquor and Gaming (Commissioner) or Chief Executive may *directly* approve the disclosure of confidential information about a person's personal or business affairs, including their reputation and character, or about a person who makes an application under a gaming Act. Prescribed entities can include national and international agencies involved in gambling regulation and enforcement. Prescribing entities by regulation facilitates the timely sharing of information amongst relevant agencies in the course of an investigation into the suitability of that person to be involved in an authorised gambling activity. This more readily assists to achieve the purpose of protecting players and the community from potential harm associated

with the gambling industry. Accordingly, the immediate engagement with a regulatory agency to provide material germane to such investigations is the preferred approach.

(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

A person's privacy must not be unlawfully or arbitrarily interfered with, or their reputation unlawfully attacked. The notion of arbitrary interference extends to those interferences which may be lawful, but are unreasonable, unnecessary, and disproportionate. Accordingly, any limitation to a person's right to privacy and reputation that arises because confidential information about them is disclosed between the Commissioner or Chief Executive and the entities prescribed under the gambling regulations must be justifiably balanced against the purpose of the limitation.

The purpose of the limitation is to obtain information relevant to whether the person is suitable to be involved in the gambling industry so as to protect players and the community from potential harm associated with the industry. Given this potential for harm, it is considered participation in regulated gambling is a privilege and not an automatic right. In exchange for participating in the industry, those involved are expected to uphold the highest standards of probity.

Prescribing entities by regulation facilitates the timely sharing of information amongst relevant agencies in the course of an investigation into the suitability of a person to be involved in an authorised gambling activity. The extent of the limitation is also mitigated by ensuring that only the most relevant regulatory and law enforcement agencies responsible for oversight of the gambling industry in their respective jurisdictions are prescribed.

It is therefore considered that the limitation on the right to privacy is appropriately balanced against the right, as the limitation is a reasonable, necessary and proportionate way to ensure regulators are appropriately empowered to maintain the integrity of state-sanctioned gambling activities.

(f) any other relevant factors

No other relevant factors have been identified.

## Conclusion

I consider that the Amendment Regulation is compatible with the *Human Rights Act 2019* because although it limits a human right, that limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

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Attorney-General  
and Minister for Justice  
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