

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, March 2021*



Queensland

**No.
A BILL for**

An Act to amend the Co-operatives National Law Act 2020, the Criminal Code, the Gaming Machine Act 1991, the Interactive Gambling (Player Protection) Act 1998, the Legal Profession Act 2007, the Liquor Act 1992, the Police Powers and Responsibilities Act 2000, the Racing Integrity Act 2016, the Wagering Act 1998 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2021

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2021

A Bill

for

An Act to amend the *Co-operatives National Law Act 2020*, the Criminal Code, the *Gaming Machine Act 1991*, the *Interactive Gambling (Player Protection) Act 1998*, the *Legal Profession Act 2007*, the *Liquor Act 1992*, the *Police Powers and Responsibilities Act 2000*, the *Racing Integrity Act 2016*, the *Wagering Act 1998* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021*.

2 Commencement

- (1) Part 6, other than sections 24A and 24B, commences on 1 May 2021.
- (2) Sections 24A and 24B commence on 1 July 2021.
- (3) The following provisions commence on a day to be fixed by proclamation—
 - (a) part 4, division 3;
 - (b) part 7, division 3;
 - (c) part 8;
 - (d) part 10, division 3.

Part 2 Amendment of Co-operatives National Law Act 2020

3 Act amended

This part amends the *Co-operatives National Law Act 2020*.

4 Amendment of s 9 (Designated authority)

- (1) Section 9(1), before paragraph (a)—

insert—

(aa) section 15;

(2) Section 9(1)(aa) to (d)—

renumber as section 9(1)(a) to (e).

Part 3 Amendment of Criminal Code

5 Code amended

This part amends the Criminal Code.

6 Amendment of s 1 (Definitions)

Section 1—

insert—

assault—

(a) generally—see section 245; or

(b) for chapter 32—see section 347.

7 Amendment of s 347 (Definitions for ch 32)

Section 347—

insert—

assault has the meaning given by section 245 as if a reference in section 245 to consent were a reference to consent within the meaning given by section 348.

8 Amendment of s 348 (Meaning of *consent*)

Section 348—

insert—

(3) A person is not to be taken to give consent to an

[s 9]

act only because the person does not, before or at the time the act is done, say or do anything to communicate that the person does not consent to the act.

- (4) If an act is done or continues after consent to the act is withdrawn by words or conduct, then the act is done or continues without consent.

9 Insertion of new s 348A

After section 348—

insert—

348A Mistake of fact in relation to consent

- (1) This section applies for deciding whether, for section 24, a person charged with an offence under this chapter did an act under an honest and reasonable, but mistaken, belief that another person gave consent to the act.
- (2) In deciding whether a belief of the person was honest and reasonable, regard may be had to anything the person said or did to ascertain whether the other person was giving consent to the act.
- (3) In deciding whether a belief of the person was reasonable, regard may not be had to the voluntary intoxication of the person caused by alcohol, a drug or another substance.

10 Insertion of new ch 104

Part 9—

insert—

Chapter 104 Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021

754 Offences charged before or after the commencement

(1) Despite the *Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021*, the former provisions continue to apply in relation to a person charged with an offence before the commencement.

(2) The new provisions apply in relation to a person charged with an offence after the commencement, whether the charge is for an offence committed before or after the commencement.

(3) In this section—

former provisions means the provisions of this Code as in force from time to time before the commencement.

new provisions means the provisions of this Code as in force from the commencement.

[s 11]

Part 4 Amendment of Gaming Machine Act 1991

Division 1 Preliminary

11 Act amended

This part amends the *Gaming Machine Act 1991*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments commencing on assent

12 Insertion of new s 55FA

After section 55F—

insert—

55FA When notice of decision must be given to particular entities

- (1) This section applies in relation to a decision made by the commissioner on an application of significant community impact if—
 - (a) a member of the public made comments under section 55D about the application and the comments were not disregarded by the commissioner under that section; or
 - (b) an entity made representations under section 55F about the application.
- (2) The commissioner must give the member of the public or entity written notice of the decision.
- (3) However, if the comments about the application were made under section 55D collectively by a

group of members of the public—

- (a) the commissioner may give the notice mentioned in subsection (2) to a person stated in the comments to be the sponsor for the comments instead of each member of the group; and
 - (b) a notice given to the sponsor for the comments under paragraph (a) is taken to have been given to each member of the group.
- (4) The commissioner must give a notice under subsection (2) at the same time as notice of the decision is given to the applicant for the application of significant community impact.
- (5) In this section—
member of the public see section 55D(4).

13 Amendment of s 55G (Waiver or variation of requirement of this division)

Section 55G, after ‘under this division’—

insert—

, other than a requirement under section 55FA,

14 Amendment of s 58 (Decision on application for gaming machine licence)

Section 58(11) and (13)—

insert—

Note—

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

[s 15]

15 Amendment of s 63 (Decision on additional premises application)

Section 63—

insert—

Note—

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

16 Amendment of s 83 (Decision on increase application (gaming machines))

Section 83(5) and (6)—

insert—

Note—

For an application of significant community impact, see also section 55FA for other entities that must be given notice of a decision on the application.

17 Insertion of new pt 12, div 22

Part 12—

insert—

Division 22 Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021

492 Existing applications of significant community impact

Section 55FA does not apply in relation to an application of significant community impact made before the commencement.

Division 3 Amendments commencing by proclamation

18 Insertion of new s 55FB

After section 55FA, as inserted by this Act—

insert—

55FB Commissioner must publish information about particular decisions on website

- (1) This section applies in relation to a decision made by the commissioner on an application of significant community impact advertised under section 55C if—
 - (a) a member of the public made comments under section 55D objecting to the approval of the application and the comments were not disregarded under that section; or
 - (b) an entity made representations under section 55F objecting to the approval of the application.
- (2) The commissioner must publish on the department's website the following information in relation to the decision—
 - (a) the nature of the application;
 - (b) the location of the premises to which the application relates;
 - (c) the day the decision was made;
 - (d) whether the decision was to approve or refuse the application;
 - (e) a brief summary of the reasons for the decision.
- (3) However, the information that is published must not include any of the following—

[s 19]

- (a) sensitive information about a person;
 - (b) information the commissioner reasonably considers is commercially sensitive;
 - (c) information about a person's criminal history given to the commissioner under section 53 or 53A.
- (4) The information must be published under subsection (2)—
- (a) as soon as practicable, but no later than 28 days, after the decision is made; and
 - (b) for a period of at least 3 months.
- (5) A failure to comply with this section does not affect the validity of the decision.
- (6) In this section—
- member of the public* see section 55D(4).
- sensitive information*, about a person, means information about—
- (a) the person's reputation; or
 - (b) the person's history of behaviour or attitude in relation to the management and discharge of the person's financial obligations.

19 Amendment of s 55G (Waiver or variation of requirement of this division)

Section 55G, after 'section 55FA', as inserted by this Act—

insert—

or 55FB

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

20 **Act amended**

This part amends the *Interactive Gambling (Player Protection) Act 1998*.

21 **Insertion of new pt 7, div 15A**

Part 7—

insert—

Division 15A Interactive gambling inducements and direct marketing

166A Definitions for division

In this division—

interactive wagering account, of a person, means an account—

- (a) in the name of the person with an interactive wagering operator; and
- (b) that is accessible by means of a telecommunication device; and
- (c) against which the operator has a right to debit the amount of a wager placed by the person.

interactive wagering customer means a person who has an interactive wagering account.

interactive wagering operator means a person who—

[s 21]

- (a) is a betting operator under the *Betting Tax Act 2018*, section 12; and
- (b) offers wagering that is an interactive game with or through the person using a telecommunication device; and
- (c) does not directly or indirectly make available, or in any way facilitate the provision of, a telecommunication device used to place a wager.

166B Prohibited inducements

An interactive wagering operator or a person acting for an interactive wagering operator must not offer, or cause to be offered, to a person who is in Queensland (a *relevant person*) any credit, voucher, reward or other benefit as an incentive for the relevant person—

- (a) to open an interactive wagering account with the operator; or
- (b) to refer another person to the operator for the purpose of that person opening an interactive wagering account with the operator; or
- (c) not to close an interactive wagering account with the operator after the relevant person asks the operator to close the account.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

166C Wagering using free bets

- (1) An interactive wagering operator or a person acting for an interactive wagering operator must not offer, or cause to be offered, a free bet to an

interactive wagering customer who is in Queensland and has an interactive wagering account with the operator unless the customer can withdraw payouts arising from the free bet at any time.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

(2) In this section—

free bet see the *Betting Tax Act 2018*, section 7.

166D Restrictions on direct marketing

(1) An interactive wagering operator or a person acting for an interactive wagering operator must not send promotional or advertising material directly by email, SMS message or other direct means to a person who is in Queensland (a *relevant person*) unless—

- (a) the relevant person has given express and informed consent to receiving promotional or advertising material directly by that means; and
- (b) either—
 - (i) the relevant person has not withdrawn the consent; or
 - (ii) the relevant person has withdrawn the consent but the operator or person is not aware of the withdrawal.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

(2) If the relevant person has given consent to receiving promotional or advertising material, the

[s 21]

interactive wagering operator or a person acting for the interactive wagering operator—

- (a) must provide the relevant person with a means to easily withdraw the consent at any time; and
- (b) if the relevant person attempts to withdraw the consent—must not offer, or cause to be offered, to the relevant person any credit, voucher, reward or other benefit as an incentive for the relevant person not to withdraw the consent.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (3) If the interactive wagering operator or a person acting for the interactive wagering operator sends promotional or advertising material to the relevant person electronically, the operator or person must provide a mechanism, including, for example, an electronic link, in the material allowing the relevant person to easily withdraw consent from receiving promotional or advertising material.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (4) For this section, if the relevant person withdraws consent from receiving promotional or advertising material, the withdrawal takes effect 5 business days, or a shorter period prescribed by regulation, after the relevant person withdraws consent.

166E Obligation of interactive wagering operator to identify person's location

- (1) An interactive wagering operator must, when receiving a wager placed from an interactive wagering account, take reasonable steps to identify the location of the person placing the wager.

Maximum penalty—100 penalty units.

- (2) For complying with subsection (1), the interactive wagering operator may rely on either of the following addresses as being the location of the person placing the wager—
- (a) for an individual—an address given to the operator by the individual as the individual's residential address;
 - (b) for a company within the meaning of the Corporations Act—an address given to the operator by or for the company as the company's principal place of business.
- (3) However, subsection (2) does not apply if the interactive wagering operator knows, or has reasonable grounds to suspect, that an address mentioned in subsection (2)(a) or (b) is not the location of the person when the wager is placed.

22 Insertion of new pt 12, div 4

Part 12—

insert—

Division 4

**Transitional provision for
Criminal Code (Consent
and Mistake of Fact) and
Other Legislation
Amendment Act 2021**

[s 23]

272 Interactive wagering accounts established before commencement

Sections 166B, 166C and 166E apply in relation to an interactive wagering customer whether the customer's interactive wagering account, however called, was established before or after the commencement.

23 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

interactive wagering account, of a person, for part 7, division 15A, see section 166A.

interactive wagering customer, for part 7, division 15A, see section 166A.

interactive wagering operator, for part 7, division 15A, see section 166A.

Part 6 Amendment of Legal Profession Act 2007

24 Act amended

This part amends the *Legal Profession Act 2007*.

24A Amendment of s 364 (Expenditure from fund)

(1) Section 364(g)—

omit, insert—

(g) an amount for—

(i) a program or tool to assist the law society or law practices in identifying defaults; or

Example—

a program of regular auditing for new law practices

- (ii) an educational program for law practices aimed at improving compliance with part 3.3;

Example—

an educational program delivered to law practices about trust accounting obligations

- (h) all other moneys payable out of the fund under this Act.

- (2) Section 364—

insert—

- (2) A regulation may prescribe the maximum amount that may be paid out of the fund under subsection (1)(g) for a financial year.

24B Replacement of s 367 (Minister may require report about fund)

Section 367—

omit, insert—

367 Reporting requirements

- (1) The law society must give the Minister a report about the fidelity fund on or before 30 September of each year.
- (2) The report must—
 - (a) relate to the most recent financial year to end before the report is given; and
 - (b) include the following—
 - (i) details of each amount paid out of the fund under section 364(1)(a);

[s 25]

- (ii) details of each amount paid out of the fund under section 364(1)(g), including details about how the amount was spent;
 - (iii) the balance of the fund at the end of the financial year;
 - (iv) a matter prescribed by regulation for this subsection.
- (3) Subsection (4) applies if, at any time, the Minister believes the fidelity fund is not sufficient to satisfy the liabilities of the fund at or about that time.
- (4) The Minister may, by written notice to the council, require the law society to give the Minister a written report about the fund on the matters stated in the notice.
- (5) The law society must comply with the requirement within 14 days after receiving the notice or within the further time allowed by the Minister.

25 Replacement of s 396 (Caps on payments)

Section 396—

omit, insert—

396 Limiting payments from fidelity fund to capped amount

- (1) This section applies in relation to a claim if, despite measures the law society may take under section 368 or 369, the law society believes the fidelity fund is likely to become insufficient as mentioned in section 397(1) if the allowed amount for the claim were to be paid in full.
- (2) The law society may limit the payment from the fidelity fund to the capped amount for the claim.

-
- (3) If the law society limits the payment from the fidelity fund for the claim under subsection (2)—
- (a) the payment is made in full and final settlement of the claim; and
 - (b) no proceeding can be brought, by way of appeal, application for review or otherwise, to require the payment of a larger amount, or to require the law society to consider payment of a larger amount, for the claim.
- (4) As soon as practicable after limiting the payment under subsection (2), the law society must give written notice to the Minister about the limitation.
- (5) In this section—

allowed amount, for a claim, means the amount payable in relation to the claim as decided by the law society under division 5 or, if the law society's decision is reviewed by QCAT, the amount payable in relation to the claim as decided by QCAT.

capped amount, for a claim, means the amount prescribed by regulation as the capped amount for the claim.

26 Insertion of new ch 10, pt 8

Chapter 10—

insert—

Part 8

Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021

[s 26]

787 Law society must make additional payments for claims limited under former s 396

- (1) This section applies if, before the commencement, the law society paid an amount (the *capped payment*) from the fidelity fund for a claim that was less than the allowed amount for the claim because the payment was limited by an amount fixed under former section 396.
- (2) As soon as practicable after the commencement, the law society must pay the claimant an amount from the fidelity fund for the claim that is equal to the difference between—
 - (a) the capped payment; and
 - (b) the allowed amount of the claim.
- (3) The law society must also pay the claimant interest on the amount payable from the fidelity fund under subsection (2).
- (4) The interest—
 - (a) must be calculated at the rate prescribed by regulation from the day the capped payment was made; and
 - (b) is payable from the fidelity fund.
- (5) In this section—

allowed amount, for a claim, means the amount payable in relation to the claim as decided by the law society under chapter 3, part 3.6, division 5 or, if the law society's decision is reviewed by QCAT, the amount payable in relation to the claim as decided by QCAT.

former section 396 means section 396 as in force before the commencement.

Part 7 Amendment of Liquor Act 1992

Division 1 Preliminary

27 Act amended

This part amends the *Liquor Act 1992*.

Division 2 Amendments commencing on assent

28 Amendment of s 4 (Definitions)

Section 4—

insert—

regulated hours, for regulated premises, for part 6AA, see section 173EE.

staff member, of regulated premises, for part 6AA, see section 173EE.

29 Amendment of s 173EE (Definitions for pt 6AA)

(1) Section 173EE, ‘In this division’—

omit, insert—

In this part

(2) Section 173EE, definition *operating*—

omit.

(3) Section 173EE—

insert—

regulated hours, for regulated premises, means—

[s 30]

- (a) if a condition of the licence for the premises states a period that is the premises' regulated hours for this part—that period; or
- (b) otherwise—the period during which the licensed premises are open for business between 10p.m. on a day and 5a.m. on the following day (whether under the authority of a licence, extended hours permit or extended trading hours approval).

staff member, of regulated premises, includes—

- (a) the licensee of the premises; and
- (b) a person engaged by the licensee of the premises to perform a function for this part; and
- (c) an employee, of a person mentioned in paragraph (b), who performs a function for this part on behalf of the licensee of the premises.

30 Amendment of s 173EF (Licensed premises to which this division applies)

Section 173EF—

insert—

- (3) However, this division does not apply to—
 - (a) licensed premises if the licence for the premises is subject to a condition declaring the premises not to be regulated premises for this division; or
 - (b) a part of a licensed premises if the licence for the premises is subject to a condition declaring that part of the premises not to be regulated premises for this division.

31 Amendment of s 173EG (Licence conditions about regulated premises)

Section 173EG(5), ‘for section 173EH’—

omit.

32 Replacement of s 173EH (Scanning obligations of licensees for regulated premises)

Section 173EH—

omit, insert—

173EH ID scanning obligations of staff members for regulated premises

- (1) During the regulated hours for regulated premises, the licensee for the premises must ensure the ID scanning entry requirements are complied with for all entries by patrons to the premises.

Maximum penalty—10 penalty units.

- (2) During the regulated hours for regulated premises, a staff member responsible for controlling an entry to the premises must ensure the ID scanning entry requirements are complied with for each patron to whom the staff member allows entry to the premises.

Maximum penalty—10 penalty units.

- (3) Subsections (1) and (2) do not apply during regulated hours starting on a day if the licensee is not authorised to sell or supply liquor on the regulated premises after midnight of that day.
- (4) Subsections (1) and (2) also do not apply during regulated hours starting on a Monday, Tuesday, Wednesday or Thursday if the regulated premises are not open for business after 1a.m. on the following day, regardless of whether the licence, extended hours permit or extended trading hours

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approval for the premises authorises the premises to be open after 1a.m. on that day.

- (5) Despite subsection (4), subsections (1) and (2) apply during regulated hours starting on a Monday, Tuesday, Wednesday or Thursday that is the day before a public holiday if the licensee is authorised to sell or supply liquor on the regulated premises after midnight of that day.
- (6) However, the exemptions under subsections (3) and (4) do not apply to regulated premises for regulated hours if a licence condition for the licensee of the premises requires the ID scanning entry requirements to be complied with during the regulated hours.
- (7) To remove any doubt, it is declared that this section does not apply in relation to the entry of a person to that part of a premises that is not regulated premises for this division under section 173EF(3)(b).
- (8) This section is subject to section 173EHAA.
- (9) In this section—

ID scanning entry requirements, for regulated premises, means the requirements under section 173EHAAA.

173EHAAA ID scanning entry requirements for entry to regulated premises

- (1) The ID scanning entry requirements for regulated premises are that a patron must not be allowed to enter the premises unless—
 - (a) the patron produces a photo ID; and
 - (b) a staff member of the premises scans the photo ID using an approved ID scanner linked to an approved ID scanning system; and

- (c) the scan of the photo ID indicates the patron is not subject to a banning order for the premises.
- (2) A reference in subsection (1)(b) to scanning a photo ID is a reference to operating the approved ID scanner in a way that—
 - (a) records the photo and other permitted information contained in or on the photo ID; and
 - (b) indicates to the staff member whether or not the person is subject to a banning order recorded in the approved ID scanning system to which the approved ID scanner is linked.
- (3) If a staff member of regulated premises can not comply with subsection (1) because of a system failure, the ID scanning entry requirements for the premises are that a patron must not be allowed to enter the premises unless—
 - (a) the patron produces a photo ID; and
 - (b) a staff member of the premises checks the photo ID against a current list of persons who are subject to a banning order within the meaning of section 173EJB; and
 - (c) the check mentioned in paragraph (b) indicates the patron is not subject to a banning order for the premises.
- (4) If a staff member of regulated premises can not comply with subsection (1) because of a system failure—
 - (a) the staff member must comply with any other requirements prescribed by regulation; and
 - (b) the licensee must give written notice of the system failure to the commissioner and the

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police commissioner within 48 hours after first allowing entry to a patron during the system failure; and

- (c) the licensee must make reasonable efforts to rectify, as soon as possible, any part of the system failure that is a fault of, or damage to, the approved ID scanner.

Maximum penalty—10 penalty units.

- (5) This section does not apply in relation to an entry of regulated premises by any of the following persons—

- (a) a resident, whether temporary or permanent, of the premises;

- (b) an exempt minor;

- (c) a person whose sole purpose for entering the premises is to attend a function held on the premises;

- (d) for premises to which any of the following licences relates—a person whose sole purpose for entering the premises is to eat a meal in a part of the premises ordinarily set aside for dining, whether or not liquor is sold and supplied to the person for consumption by the person in association with the eating of the meal—

- (i) a commercial hotel licence;

- (ii) a subsidiary on-premises licence if the principal activity of a business conducted under the licence is the provision of accommodation;

- (iii) a community club licence.

- (6) In this section—

enter, premises, includes re-enter the premises.

permitted information does not include personal

information about a person other than the information mentioned in section 173EJ(1)(a), (c) or (d) for the person.

33 Amendment of s 173EHAA (Re-entry pass system for regulated premises)

- (1) Section 173EHAA(1), from ‘The’ to ‘the subsection’—

omit, insert—

A staff member of regulated premises does not need to comply with section 173EH(1) or (2)

- (2) Section 173EHAA(1)(b), ‘the licensee complied with section 173EH(1)’—

omit, insert—

a staff member of the premises complied with section 173EH(1) or (2)

- (3) Section 173EHAA(1)(c), ‘the licensee’—

omit, insert—

a staff member of the premises

- (4) Section 173EHAA(4), definition *regulated hours*—

omit.

34 Amendment of s 173EHA (Delayed application of s 173EH to particular regulated premises)

Section 173EHA(2), ‘the licensee’—

omit, insert—

a staff member

35 Amendment of s 173EOA (Direction about ID scanning system)

- (1) Section 173EOA—

[s 36]

insert—

(2A) The direction may also require the responsible person to give a copy of the notice to all, or stated, licensees for regulated premises who use, in the premises, an approved ID scanner linked to the ID scanning system.

(2) Section 173EOA(4)(c)—

omit.

(3) Section 173EOA—

insert—

(4A) The commissioner may give a copy of the notice to the licensee for regulated premises who uses, in the premises, an approved ID scanner linked to the ID scanning system.

(4) Section 173EOA(2A) to (5)—

renumber as section 173EOA(3) to (7).

36 Amendment of s 173EQ (Approval of persons to operate ID scanning systems)

Section 173EQ(10)—

insert—

operate, in relation to an approved ID scanning system, does not include operate an ID scanner linked to the system under section 173EHAAA(2).

37 Amendment of s 185 (Obstruction of investigators)

(1) Section 185(1)—

insert—

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) Section 185(2), penalty—

omit.

(3) Section 185—

insert—

(3) A licensee is also taken to obstruct an investigator in the exercise of a power under this Act if the licensee, or a person authorised to act on behalf of the licensee, bans the investigator from entering the licensee's licensed premises.

(4) Subsection (3) does not apply if the licensee proves the ban was imposed because of the investigator's behaviour as a patron of the licensed premises.

38 Insertion of new s 224A

After section 224—

insert—

224A Authorisation for purposes of Competition and Consumer Act 2010 (Cwlth)

(1) This section applies if—

(a) a liquor accord includes a term that has the effect of being a price control or supply control; or

(b) a local board for a safe night precinct adopts a local initiative that has the effect of being a price control or supply control.

(2) The parties to the liquor accord, or the local board, may apply to the commissioner to register the liquor accord or the local initiative.

(3) The application must be made in a way approved by the commissioner.

(4) The commissioner must consider the application and decide whether to register the liquor accord or

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local initiative.

- (5) If the only price controls and supply controls in the liquor accord or local initiative are mirror controls, the commissioner must register the liquor accord or local initiative.
- (6) If any price control or supply control in the liquor accord or local initiative is not a mirror control, the commissioner may register the liquor accord or local initiative only if satisfied the price control or supply control is appropriate for reducing, and proportionate to, the alcohol-related problems it is intended to reduce.
- (7) In deciding whether to register a liquor accord or local initiative, the commissioner must have regard to guidelines made under section 42A.
- (8) The commissioner must de-register a liquor accord or local initiative registered under this section if—
 - (a) the commissioner is no longer satisfied a price control or supply control included in the liquor accord or local initiative is—
 - (i) appropriate for reducing the alcohol-related problems intended to be reduced by the control; or
 - (ii) proportionate to the alcohol-related problems intended to be reduced by the control; or
 - (b) the liquor accord or local initiative is amended to include a price control or supply control that is not a mirror control.
- (9) If a liquor accord or local initiative registered under this section is amended to include or change a price control or supply control, the parties to the liquor accord, or the local board, must give the commissioner written notice of the amendment in a way approved by the commissioner.

- (10) Entry by a person into a liquor accord or adoption of a local initiative, and any conduct of a person done for the purpose of promoting or giving effect to the terms of a liquor accord or a local initiative, are authorised by this Act for the *Competition and Consumer Act 2010* (Cwlth), section 51(1)(b) and the Competition Code of Queensland.
- (11) However, the authorisation under subsection (10) applies—
- (a) only while the liquor accord or local initiative is registered under this section; and
 - (b) only to the extent the liquor accord or local initiative regulates the supply of liquor.
- (12) If the commissioner approves a way for making an application or providing information under this section, the commissioner must publish the details of the approved way on the department's website.
- (13) In this section—
- alcohol-related problems*** means—
- (a) harm caused by alcohol abuse and misuse and associated violence; and
 - (b) alcohol-related disturbances, or public disorder, in a locality.
- liquor accord*** see section 224(2).
- local initiative***, of a local board for a safe night precinct, means a resolution, rule or arrangement adopted by the board.
- mirror control*** means a price control or supply control that is enforced under this Act.
- price control*** means a term of an agreement, memorandum of understanding or other arrangement that imposes a minimum sale price

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for a specific volume of liquor.

Example—

setting a minimum price for 1 standard drink

supply control means a term of an agreement, memorandum of understanding or other arrangement that prohibits the way liquor can be supplied.

Example—

restricting the supply of particular products based on the volume or strength of liquor contained in the product

Division 3 Amendments commencing by proclamation

39 Amendment of s 48 (Preservation of confidentiality)

(1) Section 48(2)—

insert—

(ca) disclosing information about applications under section 121B; or

(2) Section 48(2)(ca) to (e)—

renumber as section 48(2)(d) to (f).

40 Amendment of s 113 (Application for transfer of licence)

Section 113—

insert—

(4) Also, if the licensee uses, in the licensed premises, an approved ID scanner linked to an approved ID scanning system, the commissioner must give the approved operator for the approved ID scanning system notice of the transfer.

(5) In this section—

approved ID scanner see section 173EE.

approved ID scanning system see section 173EE.

approved operator see section 173EE.

41 Amendment of s 121A (Commissioner must publish information after granting particular applications)

Section 121A, heading, after ‘applications’—

insert—

for extended trading hours approval

42 Insertion of new s 121B

After section 121A—

insert—

121B Commissioner must publish information about particular applications advertised under s 118

- (1) This section applies in relation to a decision made by the commissioner on an application advertised under section 118 if—
 - (a) a local government or police district officer gave the commissioner a comment on the application under section 117; or
 - (b) a local government or police district officer objected to the grant of the application under section 117; or
 - (c) a member of the public made a submission about the application under section 118A; or
 - (d) a member of the public objected to the grant of the application under section 119; or
 - (e) the Minister objected to the grant of the application under section 119A.
- (2) The commissioner must publish on the

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department's website the following information in relation to the decision—

- (a) the nature of the application;
 - (b) the location of the premises to which the application relates;
 - (c) the day the decision was made;
 - (d) whether the decision was to approve or refuse the application;
 - (e) a brief summary of the reasons for the decision.
- (3) However, the information that is published must not include any of the following—
- (a) sensitive information about a person;
 - (b) information the commissioner reasonably considers is commercially sensitive;
 - (c) particulars given to the commissioner under section 45.
- (4) The information must be published under subsection (2)—
- (a) as soon as practicable, but no later than 28 days, after the decision is made; and
 - (b) for a period of 3 months.
- (5) A failure to comply with this section does not affect the validity of the decision.
- (6) In this section—
- sensitive information***, about a person, means information about—
- (a) the person's reputation; or
 - (b) the person's history of behaviour or attitude in relation to the management and discharge of the person's financial obligations.

43 Amendment of s 173EJ (Obligations about operation)

(1) Section 173EJ—

insert—

(6A) Subsection (8) applies if—

- (a) the approved operator is given notice of a transfer of a licence under section 113(4) in relation to a linked licensee; and
- (b) the system records details of a licensee ban imposed by the linked licensee.

(6B) The approved operator must remove the details of the licensee ban as soon as practicable after the transfer period ends.

Maximum penalty—25 penalty units.

(6C) Subsection (8) does not apply to a licensee ban if the new licensee for the transferred licence asks the approved operator, during the transfer period, not to remove the licensee ban from the system.

(2) Section 173EJ(7)—

insert—

transfer period, for the transfer of a licence under section 113(4), means the period of 30 days after the transfer takes effect.

(3) Section 173EJ(6A) to (7)—

renumber as section 173EJ(7) to (10).

44 Insertion of new s 173NCAA

After section 173NC—

insert—

173NCAA Review of safe night precincts

- (1) The Minister must review each safe night precinct to consider whether the prescribing of the area

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continues to achieve the purposes of this part.

- (2) A review of a safe night precinct must be started as soon as practicable after the commencement.
- (3) A further review of a safe night precinct must be started no later than 3 years after the previous review is completed.
- (4) If, after conducting a review of a safe night precinct, the Minister is no longer satisfied that the prescription of the area under section 173NC(1) is necessary to achieve the purposes of this part, the Minister must recommend to the Governor in Council the making of a regulation to change or revoke the area.

45 Amendment of s 173NCA (Changing area of safe night precincts)

- (1) Section 173NCA, heading, after ‘Changing’—

insert—

or revoking

- (2) Section 173NCA(1), after ‘to change’—

insert—

, or revoke,

Part 8 Amendment of Police Powers and Responsibilities Act 2000

46 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

Note—

See also the amendments in schedule 1.

47 Amendment of s 53BAC (Police powers for giving official warning for consorting)

(1) Section 53BAC(6)(b), before ‘electronic address’—

insert—

unique

(2) Section 53BAC(9), definition *electronic address*—

omit.

(3) Section 53BAC(9), definition *prescribed way*, paragraph (b), before ‘electronic address’—

insert—

unique

48 Amendment of s 602A (Definitions for pt 5A)

Section 602A, definitions *ending time* and *starting time*—

omit.

49 Amendment of s 602C (Police officer may give initial notice)

(1) Section 602C, heading, after ‘initial’—

insert—

police banning

(2) Section 602C(3)(a)—

insert—

Examples of disorderly, offensive, threatening or violent behaviour—

- assaulting or threatening to assault a person
- damaging property, attempting to damage property or threatening to damage property
- stealing an item from a person or premises
- taking a photograph of a person using a toilet facility from under a cubicle door

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- urinating, wilfully exposing genitals or being intoxicated in a public place in contravention of the *Summary Offences Act 2005*, section 7, 9 or 10
- using or possessing a dangerous drug
- wearing or carrying an item in contravention of the *Summary Offences Act 2005*, section 10C

50 Replacement of s 602D (Duration of initial notice)

Section 602D—

omit, insert—

602D Duration of initial police banning notice

An initial police banning notice—

- (a) takes effect from the day and time the notice—
 - (i) is personally served on the respondent; or
 - (ii) is sent, under section 602G(1)(b), by electronic communication to a unique electronic address nominated by the respondent to a police officer; and
- (b) continues in effect until—
 - (i) if the notice applies in relation to a stated event—the end of the day on which the event ends; or
 - (ii) otherwise—the end of the day stated in the notice that is no more than 1 month after the day the notice takes effect.

51 Amendment of s 602E (Notice to be explained)

(1) Section 602E(c)—

omit, insert—

- (c) an extended police banning notice may be given under division 3; and
 - (ca) the initial police banning notice may be cancelled by a police officer under section 602JA; and
- (2) Section 602E(d), before ‘notice’—
insert—
initial police banning
- (3) Section 602E(ca) and (d)—
renumber as section 602E(d) and (e).

52 Amendment of ch 19, pt 5A, div 3, hdg (Extension or cancellation of initial police banning notice by police officer)

Chapter 19, part 5A, division 3, heading, ‘or cancellation’—
omit.

53 Amendment of s 602F (Extended police banning notice)

- (1) Section 602F(3)(a), from ‘a day and time’—
omit, insert—
the end of a day that is no more than 3 months after the day the initial police banning notice took effect;
- (2) Section 602F(5), from ‘ending time’—
omit, insert—
initial police banning notice stops having effect.

54 Amendment, relocation and renumbering of s 602G (Cancellation of initial police banning notice)

- (1) Section 602G, heading, ‘initial police banning notice’—

[s 55]

omit, insert—

police banning notices by police officers

- (2) Section 602G(1), ‘an initial police’—

omit, insert—

a police

- (3) Section 602G(2), ‘initial’—

omit.

- (4) Section 602G—

relocate to chapter 19, part 5A, division 4 and *renumber* as section 602JA.

55 Insertion of new s 602G

Before section 602H—

insert—

602G How police banning notices may be given

- (1) A police banning notice may be given by a police officer to the respondent for the notice—
- (a) by personally serving the notice on the respondent; or
 - (b) by sending the notice by electronic communication to a unique electronic address nominated by the respondent to the police officer.
- (2) However, a police officer must not give an initial police banning notice under subsection (1)(b) unless the respondent for the notice is in the presence of the officer when the notice is given.
- (3) Unless the contrary is proved, a police banning notice given by a police officer under subsection (1)(b) is taken to have been received by the respondent for the notice on the day and at the time the notice is sent to the unique electronic

address nominated by the respondent to the police officer.

56 Amendment of s 602H (Form of notice)

(1) Section 602H(e)—

omit, insert—

(e) if the notice is an initial police banning notice—an extended police banning notice may be given under division 3;

(ea) the police banning notice may be cancelled by a police officer under section 602JA;

(2) Section 602H(ea) to (i)—

renumber as section 602H(f) to (j).

57 Amendment of s 602L (Procedure if police banning notice amended or cancelled)

Section 602L(1), note, ‘division 3’—

omit, insert—

section 602JA

58 Amendment of s 602N (Internal review for police banning notices)

Section 602N(1)(a), from ‘5 days’—

omit, insert—

15 days after the notice takes effect; or

59 Amendment of s 602S (Power to detain and photograph)

Section 602S(3)(c)—

omit, insert—

[s 60]

- (c) photograph a person for the purpose of attaching an image of the person to a banning order for the person.

60 Insertion of new ch 24, pt 21

Chapter 24—

insert—

Part 21

Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021

890 Existing police banning notices

- (1) The following provisions continue to apply in relation to a police banning notice in effect immediately before the commencement—
 - (a) former section 602D;
 - (b) former section 602N.
- (2) In this section—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

61 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *ending time* and *starting time*—

omit.
- (2) Schedule 6—

insert—

communication network means a network—

- (a) capable of electronic communication; and
- (b) designed to enable a user of the network to communicate with a specific person or a group of people.

Examples—

a telephone network or computer network

unique electronic address, for a person, means a fixed designation on a communication network assigned to the person for the purpose of the person receiving information.

Examples—

an email address, mobile phone number or user account

Part 9 Amendment of Racing Integrity Act 2016

62 Act amended

This part amends the *Racing Integrity Act 2016*.

63 Insertion of new ch 4, pt 3A

Chapter 4—

insert—

Part 3A Betting inducements and direct marketing

134A Definitions for part

In this part—

interactive betting account, of a person, means an account—

[s 63]

- (a) in the name of the person with a racing bookmaker; and
- (b) that is accessible by means of a telecommunications system; and
- (c) against which the racing bookmaker has a right to debit the amount of a bet made by the person.

interactive bettor means a person who has an interactive betting account.

134B Prohibited inducements

A racing bookmaker or a person acting for a racing bookmaker must not offer, or cause to be offered, to a person who is in Queensland (a *relevant person*) any credit, voucher, reward or other benefit as an incentive for the relevant person—

- (a) to open an interactive betting account with the racing bookmaker; or
- (b) to refer another person to the racing bookmaker for the purpose of that person opening an interactive betting account with the racing bookmaker; or
- (c) to make bets through the racing bookmaker's telecommunications system; or
- (d) to refer another person to the racing bookmaker to make bets through the racing bookmaker's telecommunications system; or
- (e) not to close an interactive betting account with the racing bookmaker after the relevant person asks the racing bookmaker to close the account.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

134C Betting using free bets

- (1) A racing bookmaker or a person acting for a racing bookmaker must not offer, or cause to be offered, a free bet to an interactive bettor who is in Queensland and has an interactive betting account with the racing bookmaker unless the interactive bettor can withdraw payouts arising from the free bet at any time.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (2) In this section—
free bet see the *Betting Tax Act 2018*, section 7.

134D Restrictions on direct marketing

- (1) A racing bookmaker or a person acting for a racing bookmaker must not send promotional or advertising material directly by email, SMS message or other direct means to a person who is in Queensland (a *relevant person*) unless—
 - (a) the relevant person has given express and informed consent to receiving promotional or advertising material directly by that means; and
 - (b) either—
 - (i) the relevant person has not withdrawn the consent; or

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- (ii) the relevant person has withdrawn the consent but the racing bookmaker or person is not aware of the withdrawal.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (2) If the relevant person has given consent to receiving promotional or advertising material, the racing bookmaker or a person acting for the racing bookmaker—
- (a) must provide the relevant person with a means to easily withdraw the consent at any time; and
 - (b) if the relevant person attempts to withdraw the consent—must not offer, or cause to be offered, to the relevant person any credit, voucher, reward or other benefit as an incentive for the relevant person not to withdraw the consent.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (3) If the racing bookmaker or a person acting for the racing bookmaker sends promotional or advertising material to the relevant person electronically, the racing bookmaker or person must provide a mechanism, including, for example, an electronic link, in the material allowing the relevant person to easily withdraw consent from receiving promotional or advertising material.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

-
- (4) For this section, if the relevant person withdraws consent from receiving promotional or advertising material, the withdrawal takes effect 5 business days, or a shorter period prescribed by regulation, after the relevant person withdraws consent.

134E Obligation of racing bookmaker to identify person's location

- (1) A racing bookmaker must, when receiving a bet made from an interactive betting account, take reasonable steps to identify the location of the person making the bet.

Maximum penalty—100 penalty units.

- (2) For complying with subsection (1), the racing bookmaker may rely on either of the following addresses as being the location of the person making the bet—
- (a) for an individual—an address given to the racing bookmaker by the individual as the individual's residential address;
 - (b) for a company within the meaning of the Corporations Act—an address given to the racing bookmaker by or for the company as the company's principal place of business.
- (3) However, subsection (2) does not apply if the racing bookmaker knows, or has reasonable grounds to suspect, that an address mentioned in subsection (2)(a) or (b) is not the location of the person when the bet is made.

Example of circumstances in which subsection (2) will not apply for a particular bet—

A person making a bet with a racing bookmaker by telephone has previously given the racing bookmaker an address outside Queensland as the person's residential address. When making the further bet, the person tells the racing bookmaker the person is in Queensland.

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64 Replacement of ch 9, hdg (Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016)

Chapter 9, heading—

omit, insert—

Chapter 9 Other transitional provisions

Part 1 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016

65 Insertion of new ch 9, pt 2

Chapter 9—

insert—

Part 2 Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021

297 Interactive betting accounts established before commencement

Sections 134B, 134C and 134E apply in relation to an interactive bettor whether the interactive bettor's interactive betting account, however called, was established before or after the

commencement.

66 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

interactive betting account, of a person, for chapter 4, part 3A, see section 134A.

interactive bettor, for chapter 4, part 3A, see section 134A.

Part 10 Amendment of Wagering Act 1998

Division 1 Preliminary

67 Act amended

This part amends the *Wagering Act 1998*.

Division 2 Amendments commencing on assent

68 Insertion of new pt 11, div 5

Part 11—

insert—

Division 5 Wagering inducements and direct marketing

[s 68]

228A Definitions for division

In this division—

interactive wagering account, of a person, means an account—

- (a) in the name of the person with a licence operator; and
- (b) that is accessible by means of a telecommunication device under the *Interactive Gambling (Player Protection) Act 1998*, schedule 3; and
- (c) against which the licence operator has a right to debit the amount of a bet made by the person.

interactive wagering customer means a person who has an interactive wagering account.

228B Prohibited inducements

A licence operator or a person acting for a licence operator must not offer, or cause to be offered, to a person who is in Queensland (a *relevant person*) any credit, voucher, reward or other benefit as an incentive for the relevant person—

- (a) to open an interactive wagering account with the licence operator; or
- (b) to refer another person to the licence operator for the purpose of that person opening an interactive wagering account with the licence operator; or
- (c) not to close an interactive wagering account with the licence operator after the relevant person asks the licence operator to close the account.

Maximum penalty—

- (a) for an individual—20 penalty units; or

- (b) for a corporation—200 penalty units.

228C Wagering using free bets

- (1) A licence operator or a person acting for a licence operator must not offer, or cause to be offered, a free bet to an interactive wagering customer who is in Queensland and has an interactive wagering account with the licence operator unless the customer can withdraw payouts arising from the free bet at any time.

Maximum penalty—

- (a) for an individual—20 penalty units; or
(b) for a corporation—200 penalty units.
- (2) In this section—

free bet see the *Betting Tax Act 2018*, section 7.

228D Restrictions on direct marketing

- (1) A licence operator or a person acting for a licence operator must not send promotional or advertising material directly by email, SMS message or other direct means to a person who is in Queensland (a *relevant person*) unless—

- (a) the relevant person has given express and informed consent to receiving promotional or advertising material directly by that means; and

- (b) either—

- (i) the relevant person has not withdrawn the consent; or
(ii) the relevant person has withdrawn the consent but the licence operator or person is not aware of the withdrawal.

Maximum penalty—

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- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (2) If the relevant person has given consent to receiving promotional or advertising material, the licence operator or a person acting for the licence operator—
- (a) must provide the relevant person with a means to easily withdraw the consent at any time; and
 - (b) if the relevant person attempts to withdraw the consent—must not offer, or cause to be offered, to the relevant person any credit, voucher, reward or other benefit as an incentive for the relevant person not to withdraw the consent.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (3) If the licence operator or a person acting for the licence operator sends promotional or advertising material to the relevant person electronically, the licence operator or person must provide a mechanism, including, for example, an electronic link, in the material allowing the relevant person to easily withdraw consent from receiving promotional or advertising material.

Maximum penalty—

- (a) for an individual—20 penalty units; or
 - (b) for a corporation—200 penalty units.
- (4) For this section, if the relevant person withdraws consent from receiving promotional or advertising material, the withdrawal takes effect 5 business days, or a shorter period prescribed by regulation, after the relevant person withdraws

consent.

228E Obligation of licence operator to identify person's location

- (1) A licence operator must, when receiving a bet made from an interactive wagering account, take reasonable steps to identify the location of the person making the bet.

Maximum penalty—100 penalty units.

- (2) For complying with subsection (1), the licence operator may rely on either of the following addresses as being the location of the person making the bet—
 - (a) for an individual—an address given to the licence operator by the individual as the individual's residential address;
 - (b) for a company within the meaning of the Corporations Act—an address given to the licence operator by or for the company as the company's principal place of business.
- (3) However, subsection (2) does not apply if the licence operator knows, or has reasonable grounds to suspect, that an address mentioned in subsection (2)(a) or (b) is not the location of the person when the bet is made.

69 Insertion of new pt 17, div 8

Part 17—

insert—

Division 8

Transitional provision for Criminal Code (Consent and Mistake of Fact) and

[s 70]

Other Legislation Amendment Act 2021

340F Interactive wagering accounts established before commencement

Sections 228B, 228C and 228E apply in relation to an interactive wagering customer whether the customer's interactive wagering account, however called, was established before or after the commencement.

70 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

interactive wagering account, of a person, for part 11, division 5, see section 228A.

interactive wagering customer, for part 11, division 5, see section 228A.

Division 3 Amendments commencing by proclamation

71 Amendment of s 164 (Dividends)

(1) Section 164—

insert—

(2A) Subsections (4) and (5) apply if—

(a) under the rules, a minimum dividend decided by the authority operator applies in relation to an investment in a totalisator conducted by the operator; and

- (b) the application of subsection (2) in calculating the amount of a dividend to be paid under subsection (1) in relation to the investment would result in the amount of the dividend being less than the amount of the minimum dividend.
 - (2B) Subsection (2) does not apply in calculating the dividend.
 - (2C) For subsection (1), the amount of the dividend is taken to be an amount equal to the minimum dividend.
- (2) Section 164(3), after ‘subsection (2)’—
insert—
- or (5)
- (3) Section 164(2A) to (3)—
renumber as section 164(3) to (6).

Part 11 Other amendments

72 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 72

Gaming Machine Act 1991

- 1 Section 281(5), ‘subsection (4)’—**
omit, insert—
 subsection (3)

- 2 Section 281(6), ‘subsection (5)(a)’—**
omit, insert—
 subsection (4)(a)

- 3 Section 281(9)(b)(i), ‘subsection (3)(b)’—**
omit, insert—
 subsection (2)(b)

- 4 Section 281(9)(b)(ii), ‘subsection (4)’—**
omit, insert—
 subsection (3)

- 5 Section 281(10), ‘subsection (9)(b)’—**
omit, insert—
 subsection (8)(b)

- 6 Section 281(2) to (12)—**
renumber as section 281(1) to (11).
- 7 Schedule 2, definition *approved game*, ‘section 281(8)’—**
omit, insert—
section 281(7)

Gaming Machine Regulation 2002

- 1 Section 34, ‘section 281(8)’—**
omit, insert—
section 281(7)
- 2 Section 59, ‘281(3)(a)’—**
omit, insert—
281(2)(a)
- 3 Schedule 5, item 52, ‘s 281(7)(a)’—**
omit, insert—
s 281(6)(a)

Police Powers and Responsibilities Act 2000

- 1 Schedule 6, definition *registered corresponding foreign procedure order*, ‘foreign’—**
omit, insert—

forensic

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