

## Gaming Acts (Amendment) Bill

### EXPLANATORY MEMORANDUM

#### PART 1—PRELIMINARY

- Clause 1 sets out the main purposes of the Act.
- Clause 2 provides for the commencement of the Act on the day on which it receives the Royal Assent, except for Part 5. The provisions of Part 5 will operate from 31 December 1996, if they are not proclaimed to come into operation from an earlier date.

#### PART 2—GAMING MACHINE CONTROL ACT 1991

- Clause 3 specifies that the Principal Act for the purposes of Part 2 is the **Gaming Machine Control Act 1991**.
- Clause 4 amends section 3(1) of the Principal Act to insert a new definition of "related entity" in relation to the Trustees of the Estate of the late George Adams, who are the holders of one of the two current gaming operator's licences. (The other licence is held by TABCORP). This definition of related entity is needed because under clause 6 of the Bill, compensation is not payable to the former holder of the gaming operator's licence if the new licence is granted to a related entity of the former licensee.
- Clause 5 substitutes section 33 of the Principal Act with new sections 33 and 33A. These sections specify who may apply for the next gaming operator's licence, after the current one has expired, and require that the applicant for the new licence must pay an amount determined by the Treasurer.
- Clause 6 inserts a new section 35A into the Principal Act, which defines the entitlement of the former licensee when a new licence is granted. If the new gaming operator's licence is granted to a person other than the former licensee or a related entity of the former licensee, then the former licensee is entitled to be paid the lesser of the licence value of the licence held by the former licensee or the premium payment paid by the new licensee. The formula for calculating the licence value is set out in section 35A(3).

- Clause 7 substitutes section 36 of the Principal Act. The section provides that variations to the conditions of a gaming operator's licence may be made by the Governor in Council with the consent of the gaming operator. This clause is identical to that which applies to the holder of the other gaming operator's licence, under section 12(4) of the **Gaming and Betting Act 1994**.
- Clause 8 substitutes section 38 of the Principal Act. It applies provisions for disciplinary action and licence cancellation which are very similar to those applying to the holder of the other gaming operator's licence, under sections 32 and 33 of the **Gaming and Betting Act 1994**.
- Clause 9 amends the Principal Act by inserting new sections 135A, 135B and 135C. Section 135A specifies the amounts that will be paid by the Trustees into the Consolidated Fund from the year ending 30 June 1996 through to the end of the licence period. Net profit, which is the basis on which the Trustees' payments are calculated, is defined in section 135A(4). Under this sub-section, the Auditor-General is asked to confirm that the net profits for a particular year present fairly the net profit from the conduct of gaming. If the Auditor-General is unwilling to provide such a confirmation, there is provision, under section 135B, for the determination of net profit by an independent expert. Section 135C specifies that the payments in respect of each year are paid in four quarterly instalments. Because these quarterly payments are based on net profits in the preceding year, while the amounts that will finally be required are based on profits in the current year, section 135C(3) provides for adjustments to be made when necessary.
- Clause 10 amends section 160 of the Principal Act, in the proposed new section 136(3B), by substituting "66  $\frac{2}{3}$  per centum" for "75 per centum". Under section 160, after a review of the shares of net cash balances between the Government, the venue and the gaming operator which has to be undertaken by 1 November 1996, the gaming operator's share could be reduced from its current 33  $\frac{1}{3}$  per cent to no less than 25 per cent. The amendment will provide that, in exchange for the additional payments which will be made by the Trustees under clause 9 of this Bill, the Trustees' share of daily net cash balances will be no less than 33  $\frac{1}{3}$  per cent.
- Clause 11 amends sections 3, 9 and 10 of the Principal Act to remove the regulation of restricted machines from the Principal Act.
- Clause 12 amends section 30 of the Principal Act to include as a disciplinary action against a venue operator the imposition of a fine not exceeding \$50,000.

- Clause 13 amends section 40 of the Principal Act to include a licensed gaming special employee as a person who must not use or allow an unlicensed person to carry out any function of a special employee.
- Clause 14 amends section 46 of the Principal Act to provide that—
- a gaming special employee must not participate in gaming at any time when a venue is closed to the public; and
- a gaming special employee must not contravene a condition of his or her licence.
- Clause 15 inserts a new section 53A into the Principal Act to require a gaming special employee whose licence is suspended or cancelled to return the licence to the Director of Gaming and Betting within 14 days after the suspension or cancellation.
- Clause 16 amends section 69 of the Principal Act to provide for approval by the Victorian Casino and Gaming Authority of variations to gaming machine types and games.
- Clause 17 inserts a new section 75B into the Principal Act to provide for approval by the Victorian Casino and Gaming Authority of electronic monitoring systems or variations to electronic monitoring systems for use by a gaming operator.
- Clause 18 amends section 77(1A) of the Principal Act to require technicians to retain all certificates created under section 77(1A) for a period of 12 months.
- Clause 19 inserts a new section 77A into the Principal Act to create an offence of gaming whilst on duty by a licensed special employee and provides for the forfeiture of any winnings arising from the commission of the offence.
- Clause 20 amends section 107A of the Principal Act to allow the Director of Gaming and Betting to sub-delegate specific powers delegated to that person by the Victorian Casino and Gaming Authority.
- Clause 21 amends section 132 of the Principal Act, regarding accounting records offences, to include a penalty provision at the foot of each sub-section of that section.
- Clause 22 amends the secrecy provisions in section 139 of the Principal Act to allow release of Victorian gambling statistics.

### **PART 3—CASINO CONTROL ACT 1991**

- Clause 23 specifies that the Principal Act for the purposes of Part 3 is the **Casino Control Act 1991**.
- Clause 24 amends section 3 of the Principal Act to substitute the definition of "inspector" and include an oral exclusion order in the definition of "exclusion order".
- Clause 25 amends the definition of "associate" in section 4 of the Principal Act.
- Clause 26 amends the grounds for disciplinary action against a casino operator in section 20 of the Principal Act to include a ground that the operator has failed to comply with a direction to terminate an association. It also amends section 20(4) to allow the Victorian Casino and Gaming Authority to use a combination of sanctions when it takes disciplinary action against a casino operator. The clause also clarifies that a member of the Authority who considers disciplinary action is not for that reason prevented from considering whether further disciplinary action should be taken.
- Clause 27 amends the provisions which deal with disciplinary action against the casino operator to ensure that the Authority's powers are broad enough to allow it to take appropriate action, in a situation where there are doubts about the suitability of the operator or an associate of the operator.
- Clause 28 inserts a new section 54A into the Principal Act to require a casino special employee whose licence is suspended or cancelled to return the licence to the Director of Casino Surveillance within 14 days after the suspension or cancellation.
- Clause 29 amends section 69 of the Principal Act to insert provisions requiring the organisers or promoters of junkets to have been approved by the Director of Casino Surveillance.
- Clause 30 amends section 72 of the Principal Act to provide that an oral exclusion order lapses after 14 days.
- Clause 31 inserts a new section 104 into the Principal Act to require a casino inspector to have and produce an identification card.
- Clause 32 amends the secrecy provision in section 151 of the Principal Act to allow release of Victorian gambling statistics and to restrict the ambit of the prohibition against divulging information to another person.

Clause 33 amends the regulation-making power in section 167(2) of the Principal Act to allow the regulations made under the Act to confer an authority or impose a duty on the Director of Casino Surveillance.

#### **PART 4—GAMING AND BETTING ACT 1994**

Clause 34 amends the secrecy provision in section 127 of the **Gaming and Betting Act 1994** to allow release of Victorian gambling statistics.

#### **PART 5—LOTTERIES GAMING AND BETTING ACT 1966**

Clause 35 provides that the Principal Act for the purposes of Part 5 is the **Lotteries Gaming and Betting Act 1966**.

Clause 36 makes consequential amendments to sections 6(1AA)(e) and 6(1A)(c) of the Principal Act to remove references that are no longer correct. It also inserts a power to make regulations with respect to fees for raffle permits and consents in the regulations.

Clause 37 substitutes a new section for section 6AAAA of the Principal Act. The new section provides that the holder of a raffle permit or consent must

- keep accounting records in or to the effect of the form approved by the Director, containing the prescribed information for a period of three years after the completion of the transactions to which they relate; and
- have those accounting records audited within 28 days after the completion of the raffle or series of raffles to which the consent or permit relates; and
- produce the records for inspection on request by a gaming investigator.

The substitution removes the old scale of fees for raffles in the Principal Act.

Clause 38 substitutes a new section for section 6AC of the Principal Act. The new section provides that the holder of a permit to sell lucky envelopes must

- retain accounting records of the sale of lucky envelopes for a period of 3 years after the completion of the transactions to which they relate; and
- produce the accounting records for inspection on request by a gaming investigator; and
- each 12 months, (or lesser time in certain circumstances) send to the Authority an audited statement in or to the effect of the form approved by the Director setting out prescribed particulars about the sale of lucky envelopes by the

person during the period since the previous statement or during the preceding 12 months if there has been no previous statement.

The substitution removes the old provision relating to the imposition of surcharges on the holders of permits to sell lucky envelopes

- Clause 39 repeals sections 6A(3), 6A(9) and section 6D of the Principal Act, to remove references to surcharges imposed on the holders of permits to conduct bingo and to fees prescribed in the Principal Act. It amends section 6E of the Principal Act to require the holder of a bingo permit to
- send to the Authority an audited statement in or to the effect of the form approved by the Director setting out prescribed particulars about the conduct of bingo by the person during the period since the previous statement or during the preceding 12 months if there has been no previous statement; and
  - provide any information in respect of bingo conducted by the person to the Director upon the latter's request and; retain all records in respect of bingo conducted by the person for three years; and
  - produce any such information for inspection on request by a gaming investigator.

#### **PART 6—RACING ACT 1958**

- Clause 40 repeals section 116G of the **Racing At 1958** which relates to appointment of officers of the former Totalizator Agency Board.

#### **PART 7—CASINO (MANAGEMENT AGREEMENT) ACT 1993**

- Clause 41 specifies that the Principal Act is the **Casino (Management Agreement) Act 1993**.
- Clause 42 makes consequential amendments to the definitions in the Principal Act and inserts a definition of "**the third Deed of Variation**".
- Clause 43 inserts a new section 6C into the Principal Act. The new section provides for the third Deed of Variation to the management agreement for the Melbourne Casino to be ratified and to take effect as if it had been enacted in this Act. It also provides for the agreement to be amended as provided in the third Deed of Variation.
- Clause 44 makes a consequential amendment to section 7(2) of the Principal Act.

Clause 45 amends the Principal Act by inserting a Schedule 4. This Schedule contains the third Deed of Variation to the management agreement for the Melbourne Casino.

### **PART 8—TRANSITIONAL PROVISIONS**

Clause 46 contains transitional provisions.

