

Casino Control and Other Legislation Amendment Bill 2022

Amendments during consideration in detail to be moved by
The Honourable the Attorney-General and Minister for Justice, Minister for
Women and Minister for the Prevention of Domestic and Family Violence

1 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 17, line 2, ‘the entity’—

omit, insert—

any of the following happens

2 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 17, lines 5 and 6—

omit, insert—

- (a) the entity contravenes a provision of this Act;
- (b) the entity is convicted of an indictable offence

3 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 17, line 12, ‘or’—

omit.

4 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 17, after line 12—

insert—

- (3A) Section 31(1)(ba), before ‘contravenes’—

insert—

the entity

5 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 17, after line 18—

insert—

(5A) Section 31(1)(ba), (c), (d), (e) and (f), ‘; or’—
omit, insert—

;

(5B) Section 31(1)(c), (e) and (g), before ‘fails’—
insert—

the entity

(5C) Section 31(1)(d), before ‘or any’—
insert—

the entity

6 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 18, line 7, ‘or’—

omit.

7 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 18, after line 7—

insert—

(7A) Section 31(1)(f), before ‘is required’—
insert—

the entity

8 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 20, line 19, ‘further action’—

omit, insert—

further disciplinary action

9 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 21, lines 4 to 12—

omit, insert—

- (b) recommend the Governor in Council take 1 or more of the following actions—
 - (i) the relevant casino licence be cancelled or suspended;
 - (ii) the casino lease or casino management agreement for the relevant casino licence be suspended or terminated;
 - (iii) the entity pay to the State a pecuniary penalty of not more than \$100m;
 - (iv) a special manager be appointed for the entity.

10 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 21, line 32, ‘further action’—

omit, insert—

further disciplinary action

11 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 22, line 18, ‘\$50m’—

omit, insert—

\$100m

12 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 22, line 24—

omit, insert—

management agreement;

(vi) appoint a special manager for the entity.

13 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 22, after line 32—

insert—

(10A) Section 31(15), after ‘direct the’—

insert—

suspension or

(10B) Section 31—

insert—

(16A) Subsections (16B) and (16C) apply if—

(a) the Governor in Council decides under subsection (12) to take any of the following disciplinary action against a casino entity—

(i) suspend or cancel a casino licence;

(ii) direct the suspension or termination of a casino lease;

(iii) direct the suspension or termination of a casino management agreement; and

(b) a special manager is appointed for the casino entity.

(16B) Before the suspension, cancellation or termination takes effect, the Governor in

Council may, on the recommendation of the Minister, take the following action by giving written notice of the action to the casino entity—

- (a) change the day the suspension, cancellation or termination takes effect;
- (b) if the Governor in Council is satisfied the suspension, cancellation or termination is no longer required because of the remediation of the management and operations of the entity—rescind the suspension, cancellation or termination to stop it taking effect.

(16C) Before making a recommendation mentioned in subsection (16B), the Minister must—

- (a) consult the special manager about the proposed recommendation; and
- (b) have regard to the implementation of the casino entity's plan for the remediation of the management and operations of the entity.

(10C) Section 31(17), 'Where a casino licence is suspended pursuant to'—

omit, insert—

If a casino licence, casino lease or casino management agreement is suspended under

(10D) Section 31(19) and (20), 'is terminated'—

omit, insert—

is suspended or terminated

(10E) Section 31(21), before 'termination'—

insert—

suspension or

14 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 23, line 22, before ‘termination’—

insert—

suspension or

15 Clause 9 (Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure))

Page 23, lines 26 to 29—

omit, insert—

(12) Section 31(23), from ‘to cancel’ to ‘agreement’—

omit, insert—

made under this section

16 Clause 10 (Insertion of new s 31A)

Page 24, line 28, before ‘terminated’—

insert—

suspended or

17 Clause 10 (Insertion of new s 31A)

Page 24, line 30—

omit, insert—

section 31(9)(a)(iii) or (12)(b)(iv);

(g) the Governor in Council decides, under section 31(12)(b)(vi), to appoint a special manager for the entity.

18 After clause 17

Page 30, after line 1—

insert—

17A Amendment of s 50 (Casino licence fee)

Section 50—

insert—

- (5) To remove any doubt, it is declared that the obligation to pay the licence fee continues for any period in which the casino licence is suspended.

19 After clause 28

Page 36, after line 2—

insert—

28A Insertion of new pt 9, div 3 and div 4, hdg

After section 90—

insert—

Division 3 Special manager

90A Definitions for division

In this division—

agreement Act means any of the following Acts—

- (a) *Breakwater Island Casino Agreement Act 1984*;
- (b) *Brisbane Casino Agreement Act 1992*;
- (c) *Cairns Casino Agreement Act 1993*;
- (d) *Jupiters Casino Agreement Act 1983*;
- (e) *Queen's Wharf Brisbane Act 2016*.

casino agreement means an agreement—

- (a) set out in an agreement Act; or
- (b) made under an agreement Act; or
- (c) ratified under an agreement Act.

90B Application of division

- (1) This division applies if—
 - (a) disciplinary action is taken against a casino entity under section 31; and
 - (b) as part of the disciplinary action the Governor in Council decides to appoint a special manager for the casino entity.
- (2) To remove any doubt, it is declared that this division applies regardless of whether—
 - (a) the initiating incident for the disciplinary action occurred before or after the commencement of this division; or
 - (b) other disciplinary action was also taken against the casino entity.
- (3) In this section—

initiating incident, in relation to disciplinary action, see section 31(24A).

90C Appointment of special manager

- (1) The Governor in Council may appoint a suitably qualified person to be the special manager, other than a person who is an associate of the casino entity under section 30A(4).
- (2) The special manager holds office on the terms and conditions decided by the Governor in Council.
- (3) The special manager is appointed under this Act and not the *Public Service Act 2008*.
- (4) The instrument of appointment for the special manager must state—
 - (a) the period for which the special manager is appointed; and

- (b) the terms and conditions of the appointment; and
 - (c) any additional functions of the special manager under section 90D(2); and
 - (d) the investigations the special manager is to carry out; and
 - (e) any directions or instructions to the special manager relating to performance of the manager's functions.
- (5) The Governor in Council may, on the recommendation of the Minister, vary the special manager's instrument of appointment by giving the manager written notice of the variation.
- (6) If the casino licence relevant to the special manager's appointment is cancelled or surrendered, the special manager's appointment ends.

90D Functions of special manager

- (1) The special manager has the following functions—
- (a) to monitor the affairs of the casino entity in relation to the management and operations of a hotel-casino complex;
 - (b) to consult on and advise in relation to the content and preparation of the casino entity's remediation plan;
 - (c) to monitor the following matters—
 - (i) the suitability and efficacy of the casino entity's remediation plan;
 - (ii) the implementation of the casino entity's remediation plan;

- (d) to report to the Minister and chief executive on the following matters—
 - (i) the suitability and efficacy of the casino entity's remediation plan;
 - (ii) the implementation of the casino entity's remediation plan;
 - (iii) the progress of the casino entity in fulfilling the entity's remediation plan.
- (2) The instrument of appointment of the special manager may include additional functions of the manager.
- (3) In performing the special manager's functions, the manager must comply with any directions and instructions stated in the manager's instrument of appointment.
- (4) In this section—

remediation plan means a plan for the remediation of the management and operations of a casino entity.

90E Powers of special manager

- (1) The special manager has all the powers necessary to perform the special manager's functions.
- (2) Without limiting subsection (1), the special manager may—
 - (a) enter into and remain in any part of the hotel-casino complex, and any other premises occupied by the casino entity in connection with its casino operations for the purpose of performing functions or exercising powers under this division; and

- (b) access all documents and records of the casino entity relating to the management and operations of a hotel-casino complex; and
 - (c) attend any meeting of the casino entity's board, or a related entity's board, or any committee or subcommittee of such boards if the meeting relates to the management and operations of a hotel-casino complex; and
 - (d) engage any person to provide advice or other services to the special manager in connection with the performance of the manager's functions.
- (3) The special manager may, by written notice given to the casino entity (an ***information requirement***), require the entity to give the manager information the manager reasonably requires to perform the manager's functions.
- (4) The special manager may give a written direction to the casino entity requiring the entity take an action, or refrain from taking an action, stated in the direction (an ***administrative direction***).
- (5) However, the special manager may give the casino entity an administrative direction only if the manager—
- (a) suspects there is or has been maladministration on the part of the entity; or
 - (b) believes the direction is in the best interests of the entity, having regard to the purpose of the appointment of the special manager; or

- (c) believes the direction is necessary to ensure compliance with any statutory obligation applying to the entity.
- (6) The casino entity must—
 - (a) comply with an information requirement given to it; and
 - (b) comply with an administrative direction given to it; and
 - (c) cooperate with the special manager in performing the manager’s functions.

Maximum penalty—160 penalty units.

- (7) The casino entity is not excused from complying with an information requirement on the ground that the information is the subject of legal professional privilege.
- (8) Information does not cease to be the subject of legal professional privilege only because it is given to the special manager in accordance with an information requirement.
- (9) In this section—

related entity, of a casino entity, means an entity that is an associated entity for the casino entity under the Corporations Act, section 50AAA.

90F Reports of special manager

- (1) The special manager must report to the Minister and the chief executive on the performance of the manager’s functions—
 - (a) as requested by the Minister or chief executive; and
 - (b) as required in the manager’s instrument of appointment.

- (2) The Minister or chief executive may disclose a report made under subsection (1), or anything in the report, only if the Minister or chief executive is satisfied it is in the public interest to make the disclosure.
- (3) Reporting to the Minister or chief executive, or the disclosure of a report, under this section does not constitute a waiver of any privilege attaching to information contained in the report, including, for example, legal professional privilege.

90G Costs for special manager

- (1) The casino entity is liable for all of the following costs and expenses—
 - (a) the reasonable costs and expenses relating to the appointment of the special manager;
 - (b) the reasonable costs and expenses relating to the performance of the special manager's functions;
 - (c) the reasonable costs and expenses incurred by the chief executive in—
 - (i) administering the appointment of the special manager; or
 - (ii) assisting the special manager in the performance of the manager's functions; or
 - (iii) engaging consultants in relation to the special manager; or
 - (iv) advising the Minister on the entity's plan for the remediation of the management and operations of the entity;

- (d) other reasonable costs and expenses prescribed by regulation.
- (2) Without limiting subsection (1)(b), the reasonable costs and expenses relating to the performance of the special manager's functions include—
 - (a) the remuneration and allowances of the manager; and
 - (b) the salary or remuneration costs associated with the staff of the manager; and
 - (c) the manager's accommodation and other operating expenses.
- (3) The casino entity may be required to pay to the State costs and expenses in advance of those costs and expenses being incurred by the special manager and chief executive.
- (4) If the casino entity is required to pay costs and expenses in advance, the chief executive must give the entity—
 - (a) a written itemised account of the expected costs and expenses; and
 - (b) a written notice requiring the entity to pay to the State the expected costs and expenses within 28 days after the requirement is made.
- (5) Subsection (6) applies if, after giving the casino entity a written notice under subsection (4), the chief executive reasonably believes there is a shortfall between—
 - (a) the amount of the expected costs and expenses itemised in the notice; and
 - (b) the actual costs and expenses for which the entity is liable under this section.

- (6) The chief executive may require the casino entity to pay to the State the amount of the shortfall by giving the entity—
 - (a) a written explanation of the shortfall; and
 - (b) a written notice requiring the entity to pay to the State the amount of the shortfall within 28 days after the requirement is made.
- (7) If a requirement is made of the casino entity under subsection (4) or (6), the casino entity must comply with the requirement.
- (8) The amount of the costs and expenses the casino entity is liable for under this section is a debt payable by the entity to the State.
- (9) In a proceeding to recover an amount of the costs and expenses the casino entity is liable for under this section, a written itemised account of the costs and expenses given to the entity is evidence of the costs.
- (10) The chief executive may refund any amount the chief executive considers to have been overpaid by the casino entity under this section.

90H Obstruction or interference with special manager

- (1) A person must not obstruct the special manager in the performance of the special manager's functions, unless the person has a reasonable excuse.

Maximum penalty—120 penalty units.

- (2) In this section—

obstruct includes hinder, resist, attempt to obstruct and threaten to obstruct.

90I Relationship with other provisions, Acts, agreements and laws

- (1) This division applies despite anything to the contrary in—
 - (a) this Act; or
 - (b) an agreement Act; or
 - (c) a casino agreement; or
 - (d) a casino lease; or
 - (e) a casino management agreement.
- (2) In performing a function or exercising a power under this division, the special manager is not required to consult with a casino entity or any other person about how the function is to be performed or whether the power should be exercised, including, for example, by giving a casino entity an opportunity to be heard before performing a function or exercising a power.
- (3) The special manager is not civilly liable for an act done or omission made honestly and without negligence in performing a function under this division.
- (4) The *Public Service Act 2008*, section 26C does not apply to the special manager.

Division 4 Other matters

20 Clause 29 (Insertion of new ss 91AA and 91AB)

Page 36, line 3, ‘91AA and 91AB’—

omit, insert—

91AA–91AC

21 Clause 29 (Insertion of new ss 91AA and 91AB)

Page 38, after line 16—

insert—

91AC Remediation plan

- (1) The Minister may, by written notice given to a casino entity—
 - (a) direct the entity to prepare a plan for the remediation of the management and operations of the entity (a **remediation plan**); and
 - (b) require the remediation plan to provide for particular matters; and
 - (c) require the remediation plan to be submitted to the Minister for approval by a stated day.
- (2) The Minister may approve the remediation plan being prepared and approved in stages.
- (3) The Minister may approve a remediation plan for a casino entity only if satisfied that implementation of the plan is likely to achieve the remediation of the management and operations of the entity.
- (4) If a casino entity has an approved remediation plan, the Minister may, by written notice given to the entity, direct the entity to amend the plan by the day and in the way stated in the notice.
- (5) The Minister may approve an amended remediation plan for a casino entity only if satisfied that implementation of the amended plan is likely to achieve the remediation of the management and operations of the entity.
- (6) If a casino operator has an approved remediation plan, the plan, including any amendment of the plan, is taken to form part of the operator's approved control system.
- (7) If there is any inconsistency between an approved

remediation plan for a casino operator and an approved control system for the operator, the remediation plan prevails to the extent of the inconsistency.

- (8) If given a direction under subsection (1) or (4), the casino entity must comply with the direction.

Maximum penalty—400 penalty units.

- (9) If a casino entity has an approved remediation plan, the entity must not contravene the plan.

Maximum penalty—400 penalty units.

- (10) A casino entity must not change the entity's approved remediation plan other than under a direction or approval of the Minister.

Maximum penalty—400 penalty units.

- (11) In this section—

casino entity means—

- (a) a casino licensee; or
- (b) the lessee under a casino lease; or
- (c) the casino operator under a casino management agreement.

22 After clause 30

Page 38, after line 21—

insert—

30A Insertion of new s 114

After section 113—

insert—

114 No compensation payable for regulatory action

- (1) No compensation is payable by or on behalf of the State because of regulatory action that has an effect on—

- (a) an entity that is or was concerned in, or otherwise connected to, the administration, management, operation or ownership of a hotel-casino complex or casino, including, for example—
 - (i) a casino entity; or
 - (ii) an associate of a casino entity under section 30A(4); or
 - (iii) an entity associated with financing a casino entity or casino operations; or
 - (iv) an employee of an entity mentioned in subparagraphs (i) to (iii); or
 - (b) the revenue earned from casino operations.
- (2) This section applies despite—
- (a) any other provision of this Act; or
 - (b) another Act or law, including, for example, an agreement Act; or
 - (c) any other instrument, including an agreement to which the State and a casino entity are parties.

(3) In this section—

agreement Act means any of the following Acts—

- (a) *Breakwater Island Casino Agreement Act 1984*;
- (b) *Brisbane Casino Agreement Act 1992*;
- (c) *Cairns Casino Agreement Act 1993*;
- (d) *Jupiters Casino Agreement Act 1983*;
- (e) *Queen's Wharf Brisbane Act 2016*.

casino agreement means an agreement—

- (a) set out in an agreement Act; or
- (b) made under an agreement Act; or
- (c) ratified under an agreement Act.

casino entity means—

- (a) a casino licensee; or
- (b) the lessee under a casino lease; or
- (c) the casino operator under a casino management agreement; or
- (d) an entity proposed to be an entity mentioned in paragraphs (a) to (c).

compensation includes—

- (a) damages; and
- (b) another form of monetary compensation; and
- (c) any other amount, whether described as compensation or not, payable under an instrument, including an agreement to which the State and a casino entity are parties; and
- (d) liability to make payments under an instrument on occurrence of events specified in the instrument, including an agreement to which the State and a casino entity are parties.

regulatory action includes—

- (a) an amendment of this Act, an agreement Act, a casino agreement or any other law that provides for or regulates the management or operations of a casino; and
- (b) the making of a regulation under this Act; and

- (c) the appointment of an administrator under section 31 or a special manager under part 9, division 3; and
- (d) an action taken, or failure to take an action, by a special manager; and
- (e) the exercise of functions or powers under this Act, an agreement Act, a casino agreement or any other law that provides for or regulates the management or operations of a casino, including the exercise of regulatory or supervisory powers under instruments approved or created under this Act.

23 Clause 33 (Amendment of schedule (Dictionary))

Page 39, after line 19—

insert—

agreement Act, for part 9, division 3, see section 90A.

casino agreement, for part 9, division 3, see section 90A.

24 Clause 33 (Amendment of schedule (Dictionary))

Page 39, after line 21—

insert—

special manager means a person appointed under section 90C.

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