

Betting Tax and Other Legislation Amendment Bill 2022

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable Cameron Dick MP, Treasurer and Minister for Trade and Investment

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Cameron Dick, Treasurer and Minister for Trade and Investment make this statement of compatibility with respect to the Betting Tax and Other Legislation Amendment Bill 2022 (the Bill).

In my opinion, the amendments to be moved during consideration in detail to the Bill are compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Amendments

The Bill amends the Betting Tax Act to, among other things, incorporate free bets into the calculation of betting tax from 1 December 2022. The Bill currently seeks to achieve this by omitting an express exclusion of free bets from the calculation of total wagering revenue for general bets (free bet exclusion). The Bill also clarifies that the amount of a bet that is a free bet includes the monetary value of the free component of the bet.

The Betting Tax Act allows payments made by a betting operator into a totalisator pool on account of free bets placed with the operator in the pool to be deducted as an eligible payment (free bet deduction), for the purposes of calculating the taxable wagering revenue of the operator. The Bill currently does not omit the free bet deduction.

It has been identified that retention of the free bet deduction would entitle totalisator betting operators to an additional deduction, which is not available for other types of bets. This is because dividend payments to customers who place totalisator bets using a free component are already taken into account in determining the betting operator's revenue from a totalisator pool.

The amendments to be moved during consideration in detail will omit the free bet deduction from 1 December 2022. The amendments also make minor consequential amendments as a result of omitting the free bet deduction, and insert appropriate transitional provisions.

Amendments to the *Revenue Legislation Amendment Act 2022* (Revenue Legislation Amendment Act) will also be moved during consideration in detail. The Revenue Legislation Amendment Act contains amendments to the *Land Tax Act 2010* to enable the value of interstate landholdings to be accounted for when assessing land tax payable in Queensland (interstate land tax reform).

In direct response to concerns about the reform raised by the public, industry and other jurisdictions, the amendments to the Revenue Legislation Amendment Act will repeal the amendments to implement the interstate land tax reform before they commence. This will give effect to the Government's decision not to proceed at this time with the interstate land tax reform.

Human Rights Issues

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

In relation to the betting tax amendments, in my opinion, the human rights under the *Human Rights Act 2019* (Human Rights Act) that are relevant are property rights (section 24 of the Human Rights Act).

For the reasons outlined below, I am of the view that the amendments are compatible with these human rights.

No human rights have been identified as being engaged by the amendments to the Revenue Legislation Amendment Act.

If human rights may be subject to limitation if the amendments are enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

(a) The nature of the right

The right to property protects the right of all persons to own property (alone or with others) and provides that people have a right to not be arbitrarily deprived of their property. The ability to own and protect property historically underpins many of the structures essential to maintaining a free and democratic society based on human dignity, equality and freedom.

The right includes the protection from the arbitrary deprivation of property. 'Arbitrary' in the human rights context refers to conduct that is capricious, unpredictable or unjust, and also refers to interferences which are unreasonable in the sense of not being proportionate to a legitimate aim that is sought.

The term 'deprived' is not defined by the Human Rights Act, however deprivation in this sense is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use their

property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it).

International human rights law provides an indication that the right to property in section 24 of the Human Rights Act is engaged by an increase in taxes. Removal of the free bet deduction may limit property rights.

(b) the nature of the purpose of the limitation to be imposed by the amendments if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendments to be moved during consideration in detail to the Bill are to ensure that totalisator betting operators are not entitled to an additional deduction, and ensure that all types of bets are treated equitably in relation to free bets. The amendments should be considered in the overall context and policy objectives of the Bill, which makes a number of amendments to the Betting Tax Act to provide for a long-term sustainable funding model for the Queensland racing industry and provide greater certainty of funding.

This purpose is consistent with a free and democratic society based on human dignity, equality and freedom as it will ensure Queensland's racing industry is adequately funded.

(c) the relationship between the limitation to be imposed by the amendments if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The amendments necessarily limit the right to property by removing the free bet deduction. That is, the amendments are necessary to ensure free bets are appropriately incorporated into the calculation of betting tax, which in turn goes toward providing long-term sustainable funding for Queensland's racing industry.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the amendments

There are no less restrictive and reasonably available ways to achieve the purpose of the amendments.

Further, section 11 of the Human Rights Act provides that only individuals have human rights. When considering the impact that the amendments will have on individuals, it is relevant that most betting operators will be corporations rather than individuals. The amendments will therefore have limited impact on individuals, which minimises the potential for any limitation on human rights.

(e) the balance between the importance of the purpose of the amendments, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

In my opinion, the potential impact of the amendments on an individual's property rights is outweighed by the benefits to the State and citizens in ensuring Queensland's racing industry is adequately and sustainably funded over the long term.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the amendments are compatible with human rights under the *Human Rights Act 2019* because it limits human rights only to the extent that it is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

THE HONOURABLE CAMERON DICK MP
TREASURER
MINISTER FOR TRADE AND INVESTMENT

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