



Queensland

# **Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020**





Queensland

# Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020

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# 2020

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## 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**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2020*. 4  
5

**Clause 2 Commencement** 6

The following provisions commence on a day to be fixed by proclamation— 7  
8

(a) part 4, division 3; 9

(b) part 7, division 3; 10

(c) part 8; 11

(d) part 10, division 3. 12

**Part 2 Amendment of Co-operatives National Law Act 2020** 13  
14

**Clause 3 Act amended** 15

This part amends the *Co-operatives National Law Act 2020*. 16

**Clause 4 Amendment of s 9 (Designated authority)** 17

(1) Section 9(1), before paragraph (a)— 18

*insert—* 19

(aa) section 15; 20

(2) Section 9(1)(aa) to (d)— 21

---

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

## **Part 3 Amendment of Criminal Code** 2

### **Clause 5 Code amended** 3

This part amends the Criminal Code. 4

### **Clause 6 Amendment of s 1 (Definitions)** 5

Section 1— 6

*insert*— 7

*assault*— 8

(a) generally—see section 245; or 9

(b) for chapter 32—see section 347. 10

### **Clause 7 Amendment of s 347 (Definitions for ch 32)** 11

Section 347— 12

*insert*— 13

*assault* has the meaning given by section 245 as if 14

a reference in section 245 to consent were a 15

reference to consent within the meaning given by 16

section 348. 17

### **Clause 8 Amendment of s 348 (Meaning of *consent*)** 18

Section 348— 19

*insert*— 20

(3) A person is not to be taken to give consent to an 21

act only because the person does not, before or at 22

the time the act is done, say or do anything to 23

communicate that the person does not consent to 24

the act. 25

[s 9]

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	(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.	1 2 3
<b>Clause 9</b>	<b>Insertion of new s 348A</b>	4
	After section 348—	5
	<i>insert—</i>	6
	<b>348A Mistake of fact in relation to consent</b>	7
	(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.	8 9 10 11 12
	(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.	13 14 15 16 17
	(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.	18 19 20 21
<b>Clause 10</b>	<b>Insertion of new ch 104</b>	22
	Part 9—	23
	<i>insert—</i>	24

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<b>Chapter 104</b>	<b>Transitional provision</b>	1
	<b>for Criminal Code</b>	2
	<b>(Consent and Mistake</b>	3
	<b>of Fact) and Other</b>	4
	<b>Legislation</b>	5
	<b>Amendment Act 2020</b>	6

<b>754</b>	<b>Offences charged before or after the</b>	7
	<b>commencement</b>	8

(1) Despite the *Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2020*, the former provisions continue to apply in relation to a person charged with an offence before the commencement. 9 10 11 12 13

(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. 14 15 16 17

(3) In this section— 18  
*former provisions* means the provisions of this Code as in force from time to time before the commencement. 19 20 21

*new provisions* means the provisions of this Code as in force from the commencement. 22 23

[s 11]

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<b>Part 4</b>	<b>Amendment of Gaming Machine Act 1991</b>	1 2
<b>Division 1</b>	<b>Preliminary</b>	3
<b>Clause 11</b>	<b>Act amended</b>	4
	This part amends the <i>Gaming Machine Act 1991</i> .	5
	<i>Note—</i>	6
	See also the amendments in schedule 1.	7
<b>Division 2</b>	<b>Amendments commencing on assent</b>	8 9
<b>Clause 12</b>	<b>Insertion of new s 55FA</b>	10
	After section 55F—	11
	<i>insert—</i>	12
	<b>55FA When notice of decision must be given to particular entities</b>	13 14
	(1) This section applies in relation to a decision made by the commissioner on an application of significant community impact if—	15 16 17
	(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	18 19 20 21
	(b) an entity made representations under section 55F about the application.	22 23
	(2) The commissioner must give the member of the public or entity written notice of the decision.	24 25
	(3) However, if the comments about the application were made under section 55D collectively by a	26 27

---

	group of members of the public—	1
	(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	2 3 4 5 6
	(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.	7 8 9 10
	(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.	11 12 13 14
	(5) In this section— <i>member of the public</i> see section 55D(4).	15 16
<b>Clause 13</b>	<b>Amendment of s 55G (Waiver or variation of requirement of this division)</b>	17 18
	Section 55G, after ‘under this division’— <i>insert—</i>	19 20
	, other than a requirement under section 55FA,	21
<b>Clause 14</b>	<b>Amendment of s 58 (Decision on application for gaming machine licence)</b>	22 23
	Section 58(11) and (13)— <i>insert—</i>	24 25
	<i>Note—</i>	26
	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.	27 28 29

[s 15]

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<b>Clause 15</b>	<b>Amendment of s 63 (Decision on additional premises application)</b>	1 2	
	Section 63—	3	
	<i>insert—</i>	4	
	<i>Note—</i>	5	
	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.	6 7 8	
<b>Clause 16</b>	<b>Amendment of s 83 (Decision on increase application (gaming machines))</b>	9 10	
	Section 83(5) and (6)—	11	
	<i>insert—</i>	12	
	<i>Note—</i>	13	
	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.	14 15 16	
<b>Clause 17</b>	<b>Insertion of new pt 12, div 22</b>	17	
	Part 12—	18	
	<i>insert—</i>	19	
	<b>Division 22</b>	<b>Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2020</b>	20 21 22 23 24
	<b>492 Existing applications of significant community impact</b>	25 26	
	Section 55FA does not apply in relation to an application of significant community impact made before the commencement.	27 28 29	



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<b>Division 3</b>	<b>Amendments commencing by proclamation</b>	1 2
<b>Clause 18</b>	<b>Insertion of new s 55FB</b>	3
	After section 55FA, as inserted by this Act—	4
	<i>insert—</i>	5
	<b>55FB Commissioner must publish information about particular decisions on website</b>	6 7
	(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—	8 9 10 11
	(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	12 13 14 15
	(b) an entity made representations under section 55F objecting to the approval of the application.	16 17 18
	(2) The commissioner must publish on the department’s website the following information in relation to the decision—	19 20 21
	(a) the nature of the application;	22
	(b) the location of the premises to which the application relates;	23 24
	(c) the day the decision was made;	25
	(d) whether the decision was to approve or refuse the application;	26 27
	(e) a brief summary of the reasons for the decision.	28 29
	(3) However, the information that is published must not include any of the following—	30 31

[s 19]

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	(a) sensitive information about a person;	1
	(b) information the commissioner reasonably considers is commercially sensitive;	2 3
	(c) information about a person's criminal history given to the commissioner under section 53 or 53A.	4 5 6
	(4) The information must be published under subsection (2)—	7 8
	(a) as soon as practicable, but no later than 28 days, after the decision is made; and	9 10
	(b) for a period of at least 3 months.	11
	(5) A failure to comply with this section does not affect the validity of the decision.	12 13
	(6) In this section—	14
	<i>member of the public</i> see section 55D(4).	15
	<i>sensitive information</i> , about a person, means information about—	16 17
	(a) the person's reputation; or	18
	(b) the person's history of behaviour or attitude in relation to the management and discharge of the person's financial obligations.	19 20 21
<b>Clause 19</b>	<b>Amendment of s 55G (Waiver or variation of requirement of this division)</b>	22 23
	Section 55G, after 'section 55FA', as inserted by this Act—	24
	<i>insert—</i>	25
	or 55FB	26

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<b>Part 5</b>	<b>Amendment of Interactive Gambling (Player Protection) Act 1998</b>	1
		2
		3
<b>Clause 20</b>	<b>Act amended</b>	4
	This part amends the <i>Interactive Gambling (Player Protection) Act 1998</i> .	5
		6
<b>Clause 21</b>	<b>Insertion of new pt 7, div 15A</b>	7
	Part 7—	8
	<i>insert—</i>	9
	<b>Division 15A Interactive gambling inducements and direct marketing</b>	10
		11
		12
	<b>166A Definitions for division</b>	13
	In this division—	14
	<i>interactive wagering account</i> , of a person, means an account—	15
		16
	(a) in the name of the person with an interactive wagering operator; and	17
		18
	(b) that is accessible by means of a telecommunication device; and	19
		20
	(c) against which the operator has a right to debit the amount of a wager placed by the person.	21
		22
		23
	<i>interactive wagering customer</i> means a person who has an interactive wagering account.	24
		25
	<i>interactive wagering operator</i> means a person who—	26
		27

[s 21]

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- (a) is a betting operator under the *Betting Tax Act 2018*, section 12; and 1  
2
- (b) offers wagering that is an interactive game 3  
with or through the person using a 4  
telecommunication device; and 5
- (c) does not directly or indirectly make 6  
available, or in any way facilitate the 7  
provision of, a telecommunication device 8  
used to place a wager. 9

### **166B Prohibited inducements** 10

An interactive wagering operator or a person 11  
acting for an interactive wagering operator must 12  
not offer, or cause to be offered, to a person who 13  
is in Queensland (a *relevant person*) any credit, 14  
voucher, reward or other benefit as an incentive 15  
for the relevant person— 16

- (a) to open an interactive wagering account 17  
with the operator; or 18
- (b) to refer another person to the operator for 19  
the purpose of that person opening an 20  
interactive wagering account with the 21  
operator; or 22
- (c) not to close an interactive wagering account 23  
with the operator after the relevant person 24  
asks the operator to close the account. 25

Maximum penalty— 26

- (a) for an individual—20 penalty units; or 27
- (b) for a corporation—200 penalty units. 28

### **166C Wagering using free bets** 29

- (1) An interactive wagering operator or a person 30  
acting for an interactive wagering operator must 31  
not offer, or cause to be offered, a free bet to an 32

---

interactive wagering customer who is in 1  
Queensland and has an interactive wagering 2  
account with the operator unless the customer can 3  
withdraw payouts arising from the free bet at any 4  
time. 5

Maximum penalty— 6

(a) for an individual—20 penalty units; or 7

(b) for a corporation—200 penalty units. 8

(2) In this section— 9

*free bet* see the *Betting Tax Act 2018*, section 7. 10

### **166D Restrictions on direct marketing** 11

(1) An interactive wagering operator or a person 12  
acting for an interactive wagering operator must 13  
not send promotional or advertising material 14  
directly by email, SMS message or other direct 15  
means to a person who is in Queensland (a 16  
*relevant person*) unless— 17

(a) the relevant person has given express and 18  
informed consent to receiving promotional 19  
or advertising material directly by that 20  
means; and 21

(b) either— 22

(i) the relevant person has not withdrawn 23  
the consent; or 24

(ii) the relevant person has withdrawn the 25  
consent but the operator or person is 26  
not aware of the withdrawal. 27

Maximum penalty— 28

(a) for an individual—20 penalty units; or 29

(b) for a corporation—200 penalty units. 30

(2) If the relevant person has given consent to 31  
receiving promotional or advertising material, the 32

[s 21]

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interactive wagering operator or a person acting for the interactive wagering operator—	1 2
(a) must provide the relevant person with a means to easily withdraw the consent at any time; and	3 4 5
(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.	6 7 8 9 10 11
Maximum penalty—	12
(a) for an individual—20 penalty units; or	13
(b) for a corporation—200 penalty units.	14
(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.	15 16 17 18 19 20 21 22 23
Maximum penalty—	24
(a) for an individual—20 penalty units; or	25
(b) for a corporation—200 penalty units.	26
(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.	27 28 29 30 31 32

<b>166E Obligation of interactive wagering operator to identify person's location</b>	1
	2
(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.	3
	4
	5
	6
	7
Maximum penalty—100 penalty units.	8
(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—	9
	10
	11
	12
(a) for an individual—an address given to the operator by the individual as the individual's residential address;	13
	14
	15
(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.	16
	17
	18
	19
(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.	20
	21
	22
	23
	24

<b>Clause 22</b>	<b>Insertion of new pt 12, div 4</b>	25	
	Part 12—	26	
	<i>insert—</i>	27	
	<b>Division 4</b>	<b>Transitional provision for</b>	28
		<b>Criminal Code (Consent</b>	29
		<b>and Mistake of Fact) and</b>	30
		<b>Other Legislation</b>	31
		<b>Amendment Act 2020</b>	32

[s 23]

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**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.

**Clause 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**

**Clause 24 Act amended**

This part amends the *Legal Profession Act 2007*.

**Clause 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



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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.	1 2 3 4
(2) The law society may limit the payment from the fidelity fund to the capped amount for the claim.	5 6
(3) If the law society limits the payment from the fidelity fund for the claim under subsection (2)—	7 8
(a) the payment is made in full and final settlement of the claim; and	9 10
(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.	11 12 13 14 15
(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.	16 17 18
(5) In this section—	19
<i>allowed amount</i> , 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.	20 21 22 23 24 25
<i>capped amount</i> , for a claim, means the amount prescribed by regulation as the capped amount for the claim.	26 27 28
<b>Clause 26</b> <b>Insertion of new ch 10, pt 8</b>	29
Chapter 10—	30
<i>insert</i> —	31

[s 26]

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<b>Part 8</b>	<b>Transitional provision</b>	1
	<b>for Criminal Code</b>	2
	<b>(Consent and Mistake</b>	3
	<b>of Fact) and Other</b>	4
	<b>Legislation</b>	5
	<b>Amendment Act 2020</b>	6

<b>787 Law society must make additional payments</b>	7
<b>for claims limited under former s 396</b>	8

- |   |    |    |    |    |    |    |
|---|----|----|----|----|----|----|
| (1) This section applies if, before the commencement, the law society paid an amount (the <i>capped payment</i> ) 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. | 9  | 10 | 11 | 12 | 13 | 14 |
| (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—  | 15 | 16 | 17 | 18 |    |    |
| (a) the capped payment; and   |    |    |    |    | 19 |    |
| (b) the allowed amount of the claim.  |    |    |    |    | 20 |    |
| (3) The law society must also pay the claimant interest on the amount payable from the fidelity fund under subsection (2).  | 21 | 22 | 23 |    |    |    |
| (4) The interest—   | 24 |    |    |    |    |    |
| (a) must be calculated at the rate prescribed by regulation from the day the capped payment was made; and   | 25 | 26 | 27 |    |    |    |
| (b) is payable from the fidelity fund.  |    |    |    |    | 28 |    |
| (5) In this section—  | 29 |    |    |    |    |    |
| <i>allowed amount</i> , 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,  | 30 | 31 | 32 |    |    |    |

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**

#### **Clause 27              Act amended**

This part amends the *Liquor Act 1992*.

### **Division 2                      Amendments commencing on assent**

#### **Clause 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.

#### **Clause 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*—

[s 30]

---

*omit.* 1

(3) Section 173EE— 2

*insert—* 3

***regulated hours***, for regulated premises, means— 4

(a) if a condition of the licence for the premises 5  
states a period that is the premises' 6  
regulated hours for this part—that period; or 7

(b) otherwise—the period during which the 8  
licensed premises are open for business 9  
between 10p.m. on a day and 5a.m. on the 10  
following day (whether under the authority 11  
of a licence, extended hours permit or 12  
extended trading hours approval). 13

***staff member***, of regulated premises, includes— 14

(a) the licensee of the premises; and 15

(b) a person engaged by the licensee of the 16  
premises to perform a function for this part; 17  
and 18

(c) an employee, of a person mentioned in 19  
paragraph (b), who performs a function for 20  
this part on behalf of the licensee of the 21  
premises. 22

**Clause 30 Amendment of s 173EF (Licensed premises to which this division applies)** 23  
24

Section 173EF— 25

*insert—* 26

(3) However, this division does not apply to— 27

(a) licensed premises if the licence for the 28  
premises is subject to a condition declaring 29  
the premises not to be regulated premises 30  
for this division; or 31

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	(b) a part of a licensed premises if the licence	1
	for the premises is subject to a condition	2
	declaring that part of the premises not to be	3
	regulated premises for this division.	4
<b>Clause 31</b>	<b>Amendment of s 173EG (Licence conditions about regulated premises)</b>	5
	Section 173EG(5), ‘for section 173EH’—	6
	<i>omit.</i>	7
		8
<b>Clause 32</b>	<b>Replacement of s 173EH (Scanning obligations of licensees for regulated premises)</b>	9
	Section 173EH—	10
	<i>omit, insert—</i>	11
	<b>173EH ID scanning obligations of staff members for regulated premises</b>	12
	(1) During the regulated hours for regulated	13
	premises, the licensee for the premises must	14
	ensure the ID scanning entry requirements are	15
	complied with for all entries by patrons to the	16
	premises.	17
	Maximum penalty—10 penalty units.	18
	(2) During the regulated hours for regulated	19
	premises, a staff member responsible for	20
	controlling an entry to the premises must ensure	21
	the ID scanning entry requirements are complied	22
	with for each patron to whom the staff member	23
	allows entry to the premises.	24
	Maximum penalty—10 penalty units.	25
	(3) Subsections (1) and (2) do not apply during	26
	regulated hours starting on a day if the licensee is	27
	not authorised to sell or supply liquor on the	28
	regulated premises after midnight of that day.	29
	(4) Subsections (1) and (2) also do not apply during	30
		31
		32

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[s 32]

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regulated hours starting on a Monday, Tuesday, 1  
Wednesday or Thursday if the regulated premises 2  
are not open for business after 1a.m. on the 3  
following day, regardless of whether the licence, 4  
extended hours permit or extended trading hours 5  
approval for the premises authorises the premises 6  
to be open after 1a.m. on that day. 7

(5) Despite subsection (4), subsections (1) and (2) 8  
apply during regulated hours starting on a 9  
Monday, Tuesday, Wednesday or Thursday that 10  
is the day before a public holiday if the licensee is 11  
authorised to sell or supply liquor on the regulated 12  
premises after midnight of that day. 13

(6) However, the exemptions under subsections (3) 14  
and (4) do not apply to regulated premises for 15  
regulated hours if a licence condition for the 16  
licensee of the premises requires the ID scanning 17  
entry requirements to be complied with during the 18  
regulated hours. 19

(7) To remove any doubt, it is declared that this 20  
section does not apply in relation to the entry of a 21  
person to that part of a premises that is not 22  
regulated premises for this division under section 23  
173EF(3)(b). 24

(8) This section is subject to section 173EHAA. 25

(9) In this section— 26

*ID scanning entry requirements*, for regulated 27  
premises, means the requirements under section 28  
173EHAAA. 29

**173EHAAA ID scanning entry requirements for 30  
entry to regulated premises 31**

(1) The ID scanning entry requirements for regulated 32  
premises are that a patron must not be allowed to 33  
enter the premises unless— 34

- 
- (a) the patron produces a photo ID; and 1
- (b) a staff member of the premises scans the 2  
photo ID using an approved ID scanner 3  
linked to an approved ID scanning system; 4  
and 5
- (c) the scan of the photo ID indicates the patron 6  
is not subject to a banning order for the 7  
premises. 8
- (2) A reference in subsection (1)(b) to scanning a 9  
photo ID is a reference to operating the approved 10  
ID scanner in a way that— 11
- (a) records the photo and other permitted 12  
information contained in or on the photo ID; 13  
and 14
- (b) indicates to the staff member whether or not 15  
the person is subject to a banning order 16  
recorded in the approved ID scanning 17  
system to which the approved ID scanner is 18  
linked. 19
- (3) If a staff member of regulated premises can not 20  
comply with subsection (1) because of a system 21  
failure, the ID scanning entry requirements for the 22  
premises are that a patron must not be allowed to 23  
enter the premises unless— 24
- (a) the patron produces a photo ID; and 25
- (b) a staff member of the premises checks the 26  
photo ID against a current list of persons 27  
who are subject to a banning order within 28  
the meaning of section 173EJB; and 29
- (c) the check mentioned in paragraph (b) 30  
indicates the patron is not subject to a 31  
banning order for the premises. 32
- (4) If a staff member of regulated premises can not 33  
comply with subsection (1) because of a system 34  
failure— 35

[s 32]

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- (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 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;



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	(iii) a community club licence.	1
	(6) In this section—	2
	<i>enter</i> , premises, includes re-enter the premises.	3
	<i>permitted information</i> does not include personal information about a person other than the information mentioned in section 173EJ(1)(a), (c) or (d) for the person.	4 5 6 7
<b>Clause 33</b>	<b>Amendment of s 173EHAA (Re-entry pass system for regulated premises)</b>	8 9
	(1) Section 173EHAA(1), from ‘The’ to ‘the subsection’—	10
	<i>omit, insert—</i>	11
	A staff member of regulated premises does not need to comply with section 173EH(1) or (2)	12 13
	(2) Section 173EHAA(1)(b), ‘the licensee complied with section 173EH(1)’—	14 15
	<i>omit, insert—</i>	16
	a staff member of the premises complied with section 173EH(1) or (2)	17 18
	(3) Section 173EHAA(1)(c), ‘the licensee’—	19
	<i>omit, insert—</i>	20
	a staff member of the premises	21
	(4) Section 173EHAA(4), definition <i>regulated hours</i> —	22
	<i>omit.</i>	23
<b>Clause 34</b>	<b>Amendment of s 173EHA (Delayed application of s 173EH to particular regulated premises)</b>	24 25
	Section 173EHA(2), ‘the licensee’—	26
	<i>omit, insert—</i>	27
	a staff member	28

[s 35]

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<b>Clause 35</b>	<b>Amendment of s 173EOA (Direction about ID scanning system)</b>	1 2
	(1) Section 173EOA—	3
	<i>insert—</i>	4
	(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.	5 6 7 8 9
	(2) Section 173EOA(4)(c)—	10
	<i>omit.</i>	11
	(3) Section 173EOA—	12
	<i>insert—</i>	13
	(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.	14 15 16 17
	(4) Section 173EOA(2A) to (5)—	18
	<i>renumber</i> as section 173EOA(3) to (7).	19
<b>Clause 36</b>	<b>Amendment of s 173EQ (Approval of persons to operate ID scanning systems)</b>	20 21
	Section 173EQ(10)—	22
	<i>insert—</i>	23
	<i>operate</i> , in relation to an approved ID scanning system, does not include operate an ID scanner linked to the system under section 173EHAAA(2).	24 25 26 27
<b>Clause 37</b>	<b>Amendment of s 185 (Obstruction of investigators)</b>	28
	(1) Section 185(1)—	29
	<i>insert—</i>	30

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	Maximum penalty—200 penalty units or 1 year’s imprisonment.	1 2
(2)	Section 185(2), penalty— <i>omit.</i>	3 4
(3)	Section 185— <i>insert—</i>	5 6
	(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.	7 8 9 10 11
	(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.	12 13 14 15
<b>Clause 38</b>	<b>Insertion of new s 224A</b>	16
	After section 224—	17
	<i>insert—</i>	18
	<b>224A Authorisation for purposes of Competition and Consumer Act 2010 (Cwlth)</b>	19 20
	(1) This section applies if—	21
	(a) a liquor accord includes a term that has the effect of being a price control or supply control; or	22 23 24
	(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.	25 26 27
	(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.	28 29 30
	(3) The application must be made in a way approved by the commissioner.	31 32

[s 38]

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- |      |  |                                      |
|------|--|--------------------------------------|
| (4)  | The commissioner must consider the application and decide whether to register the liquor accord or local initiative.   | 1<br>2<br>3                          |
| (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.   | 4<br>5<br>6<br>7                     |
| (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. | 8<br>9<br>10<br>11<br>12<br>13<br>14 |
| (7)  | In deciding whether to register a liquor accord or local initiative, the commissioner must have regard to guidelines made under section 42A.   | 15<br>16<br>17                       |
| (8)  | The commissioner must de-register a liquor accord or local initiative registered under this section if—  | 18<br>19<br>20                       |
| (a)  | the commissioner is no longer satisfied a price control or supply control included in the liquor accord or local initiative is—  | 21<br>22<br>23                       |
| (i)  | appropriate for reducing the alcohol-related problems intended to be reduced by the control; or  | 24<br>25<br>26                       |
| (ii) | proportionate to the alcohol-related problems intended to be reduced by the control; or  | 27<br>28<br>29                       |
| (b)  | the liquor accord or local initiative is amended to include a price control or supply control that is not a mirror control.  | 30<br>31<br>32                       |
| (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  | 33<br>34<br>35<br>36                 |

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commissioner written notice of the amendment in a way approved by the commissioner.	1 2
(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 <i>Competition and Consumer Act 2010</i> (Cwlth), section 51(1)(b) and the Competition Code of Queensland.	3 4 5 6 7 8 9
(11) However, the authorisation under subsection (10) applies—	10 11
(a) only while the liquor accord or local initiative is registered under this section; and	12 13 14
(b) only to the extent the liquor accord or local initiative regulates the supply of liquor.	15 16
(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.	17 18 19 20 21
(13) In this section—	22
<i>alcohol-related problems</i> means—	23
(a) harm caused by alcohol abuse and misuse and associated violence; and	24 25
(b) alcohol-related disturbances, or public disorder, in a locality.	26 27
<i>liquor accord</i> see section 224(2).	28
<i>local initiative</i> , of a local board for a safe night precinct, means a resolution, rule or arrangement adopted by the board.	29 30 31
<i>mirror control</i> means a price control or supply control that is enforced under this Act.	32 33
<i>price control</i> means a term of an agreement,	34

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[s 39]

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memorandum of understanding or other arrangement that imposes a minimum sale price for a specific volume of liquor.	1 2 3
<i>Example—</i>	4
setting a minimum price for 1 standard drink	5
<i>supply control</i> means a term of an agreement, memorandum of understanding or other arrangement that prohibits the way liquor can be supplied.	6 7 8 9
<i>Example—</i>	10
restricting the supply of particular products based on the volume or strength of liquor contained in the product	11 12

<b>Division 3</b>	<b>Amendments commencing by proclamation</b>	13 14
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<b>Clause 39</b>	<b>Amendment of s 48 (Preservation of confidentiality)</b>	15
	(1) Section 48(2)—	16
	<i>insert—</i>	17
	(ca) disclosing information about applications under section 121B; or	18 19
	(2) Section 48(2)(ca) to (e)—	20
	<i>renumber</i> as section 48(2)(d) to (f).	21
<b>Clause 40</b>	<b>Amendment of s 113 (Application for transfer of licence)</b>	22
	Section 113—	23
	<i>insert—</i>	24
	(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.	25 26 27 28 29

---

	(5) In this section—	1
	<i>approved ID scanner</i> see section 173EE.	2
	<i>approved ID scanning system</i> see section 173EE.	3
	<i>approved operator</i> see section 173EE.	4
<b>Clause 41</b>	<b>Amendment of s 121A (Commissioner must publish information after granting particular applications)</b>	5
	Section 121A, heading, after ‘applications’—	6
	<i>insert—</i>	7
	<b>for extended trading hours approval</b>	8
<b>Clause 42</b>	<b>Insertion of new s 121B</b>	9
	After section 121A—	10
	<i>insert—</i>	11
	<b>121B Commissioner must publish information about particular applications advertised under s 118</b>	12
	(1) This section applies in relation to a decision made by the commissioner on an application advertised under section 118 if—	13
	(a) a local government or police district officer gave the commissioner a comment on the application under section 117; or	14
	(b) a local government or police district officer objected to the grant of the application under section 117; or	15
	(c) a member of the public made a submission about the application under section 118A; or	16
	(d) a member of the public objected to the grant of the application under section 119; or	17
	(e) the Minister objected to the grant of the application under section 119A.	18

[s 42]

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- (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—
- (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.



<b>Clause 43</b>	<b>Amendment of s 173EJ (Obligations about operation)</b>	1
(1)	Section 173EJ—	2
	<i>insert—</i>	3
	(6A) Subsection (8) applies if—	4
	(a) the approved operator is given notice of a transfer of a licence under section 113(4) in relation to a linked licensee; and	5 6 7
	(b) the system records details of a licensee ban imposed by the linked licensee.	8 9
	(6B) The approved operator must remove the details of the licensee ban as soon as practicable after the transfer period ends.	10 11 12
	Maximum penalty—25 penalty units.	13
	(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.	14 15 16 17
(2)	Section 173EJ(7)—	18
	<i>insert—</i>	19
	<b><i>transfer period</i></b> , for the transfer of a licence under section 113(4), means the period of 30 days after the transfer takes effect.	20 21 22
(3)	Section 173EJ(6A) to (7)—	23
	<i>renumber</i> as section 173EJ(7) to (10).	24
<b>Clause 44</b>	<b>Insertion of new s 173NCAA</b>	25
	After section 173NC—	26
	<i>insert—</i>	27
	<b>173NCAA Review of safe night precincts</b>	28
	(1) The Minister must review each safe night precinct to consider whether the prescribing of the area	29 30

[s 45]

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	continues to achieve the purposes of this part.	1
	(2) A review of a safe night precinct must be started as soon as practicable after the commencement.	2 3
	(3) A further review of a safe night precinct must be started no later than 3 years after the previous review is completed.	4 5 6
	(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.	7 8 9 10 11 12 13
<b>Clause 45</b>	<b>Amendment of s 173NCA (Changing area of safe night precincts)</b>	14 15
	(1) Section 173NCA, heading, after ‘Changing’— <i>insert—</i>	16 17
	<b>or revoking</b>	18
	(2) Section 173NCA(1), after ‘to change’— <i>insert—</i>	19 20
	, or revoke,	21
<b>Part 8</b>	<b>Amendment of Police Powers and Responsibilities Act 2000</b>	22 23
<b>Clause 46</b>	<b>Act amended</b>	24
	This part amends the <i>Police Powers and Responsibilities Act 2000</i> .	25 26
	<i>Note—</i>	27
	See also the amendments in schedule 1.	28



[s 50]

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	• urinating, wilfully exposing genitals or being intoxicated in a public place in contravention of the <i>Summary Offences Act 2005</i> , section 7, 9 or 10	1 2 3
	• using or possessing a dangerous drug	4
	• wearing or carrying an item in contravention of the <i>Summary Offences Act 2005</i> , section 10C	5 6
<b>Clause 50</b>	<b>Replacement of s 602D (Duration of initial notice)</b>	7
	Section 602D—	8
	<i>omit, insert—</i>	9
	<b>602D Duration of initial police banning notice</b>	10
	An initial police banning notice—	11
	(a) takes effect from the day and time the notice—	12 13
	(i) is personally served on the respondent; or	14 15
	(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	16 17 18 19
	(b) continues in effect until—	20
	(i) if the notice applies in relation to a stated event—the end of the day on which the event ends; or	21 22 23
	(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.	24 25 26
<b>Clause 51</b>	<b>Amendment of s 602E (Notice to be explained)</b>	27
	(1) Section 602E(c)—	28
	<i>omit, insert—</i>	29

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	(c) an extended police banning notice may be given under division 3; and	1 2
	(ca) the initial police banning notice may be cancelled by a police officer under section 602JA; and	3 4 5
	(2) Section 602E(d), before ‘notice’— <i>insert</i> — initial police banning	6 7 8
	(3) Section 602E(ca) and (d)— <i>renumber</i> as section 602E(d) and (e).	9 10
<b>Clause 52</b>	<b>Amendment of ch 19, pt 5A, div 3, hdg (Extension or cancellation of initial police banning notice by police officer)</b> Chapter 19, part 5A, division 3, heading, ‘or cancellation’— <i>omit</i> .	11 12 13 14 15
<b>Clause 53</b>	<b>Amendment of s 602F (Extended police banning notice)</b> (1) Section 602F(3)(a), from ‘a day and time’— <i>omit, insert</i> — 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’— <i>omit, insert</i> — initial police banning notice stops having effect.	16 17 18 19 20 21 22 23 24
<b>Clause 54</b>	<b>Amendment, relocation and renumbering of s 602G (Cancellation of initial police banning notice)</b> (1) Section 602G, heading, ‘initial police banning notice’—	25 26 27

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[s 55]

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<i>omit, insert—</i>	1
<b>police banning notices by police officers</b>	2
(2) Section 602G(1), ‘an initial police’—	3
<i>omit, insert—</i>	4
a police	5
(3) Section 602G(2), ‘initial’—	6
<i>omit.</i>	7
(4) Section 602G—	8
<i>relocate</i> to chapter 19, part 5A, division 4 and <i>renumber</i> as section 602JA.	9 10

<b>Clause 55</b>	<b>Insertion of new s 602G</b>	11
	Before section 602H—	12
	<i>insert—</i>	13
	<b>602G How police banning notices may be given</b>	14
	(1) A police banning notice may be given by a police officer to the respondent for the notice—	15 16
	(a) by personally serving the notice on the respondent; or	17 18
	(b) by sending the notice by electronic communication to a unique electronic address nominated by the respondent to the police officer.	19 20 21 22
	(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.	23 24 25 26
	(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	27 28 29 30 31

---

	address nominated by the respondent to the police officer.	1 2
<b>Clause 56</b>	<b>Amendment of s 602H (Form of notice)</b>	3
	(1) Section 602H(e)—	4
	<i>omit, insert—</i>	5
	(e) if the notice is an initial police banning notice—an extended police banning notice may be given under division 3;	6 7 8
	(ea) the police banning notice may be cancelled by a police officer under section 602JA;	9 10
	(2) Section 602H(ea) to (i)—	11
	<i>renumber</i> as section 602H(f) to (j).	12
<b>Clause 57</b>	<b>Amendment of s 602L (Procedure if police banning notice amended or cancelled)</b>	13 14
	Section 602L(1), note, ‘division 3’—	15
	<i>omit, insert—</i>	16
	section 602JA	17
<b>Clause 58</b>	<b>Amendment of s 602N (Internal review for police banning notices)</b>	18 19
	Section 602N(1)(a), from ‘5 days’—	20
	<i>omit, insert—</i>	21
	15 days after the notice takes effect; or	22
<b>Clause 59</b>	<b>Amendment of s 602S (Power to detain and photograph)</b>	23
	Section 602S(3)(c)—	24
	<i>omit, insert—</i>	25

[s 60]

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	(c) photograph a person for the purpose of attaching an image of the person to a banning order for the person.	1 2 3
<b>Clause 60</b>	<b>Insertion of new ch 24, pt 21</b>	4
	Chapter 24—	5
	<i>insert</i> —	6
	<b>Part 21</b>	7
	<b>Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2020</b>	8 9 10 11 12
	<b>890 Existing police banning notices</b>	13
	(1) The following provisions continue to apply in relation to a police banning notice in effect immediately before the commencement—	14 15 16
	(a) former section 602D;	17
	(b) former section 602N.	18
	(2) In this section—	19
	<i>former</i> , for a provision of this Act, means the provision as in force from time to time before the commencement.	20 21 22
<b>Clause 61</b>	<b>Amendment of sch 6 (Dictionary)</b>	23
	(1) Schedule 6, definitions <i>ending time</i> and <i>starting time</i> —	24
	<i>omit</i> .	25
	(2) Schedule 6—	26
	<i>insert</i> —	27



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**communication network** means a network— 1

(a) capable of electronic communication; and 2

(b) designed to enable a user of the network to 3  
communicate with a specific person or a 4  
group of people. 5

*Examples—* 6

a telephone network or computer network 7

**unique electronic address**, for a person, means a 8

fixed designation on a communication network 9

assigned to the person for the purpose of the 10

person receiving information. 11

*Examples—* 12

an email address, mobile phone number or user account 13

## **Part 9** **Amendment of Racing Integrity Act 2016** 14 15

**Clause 62** **Act amended** 16

This part amends the *Racing Integrity Act 2016*. 17

**Clause 63** **Insertion of new ch 4, pt 3A** 18

Chapter 4— 19

*insert—* 20

### **Part 3A** **Betting inducements and direct marketing** 21 22

**134A Definitions for part** 23

In this part— 24

**interactive betting account**, of a person, means an 25

account— 26

[s 63]

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- (a) in the name of the person with a racing bookmaker; and 1  
2
  - (b) that is accessible by means of a telecommunications system; and 3  
4
  - (c) against which the racing bookmaker has a right to debit the amount of a bet made by the person. 5  
6  
7
- interactive bettor* means a person who has an interactive betting account. 8  
9

### **134B Prohibited inducements** 10

- 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— 11  
12  
13  
14  
15  
16
- (a) to open an interactive betting account with the racing bookmaker; or 17  
18
  - (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 19  
20  
21  
22
  - (c) to make bets through the racing bookmaker's telecommunications system; 23  
24  
or 25
  - (d) to refer another person to the racing bookmaker to make bets through the racing bookmaker's telecommunications system; 26  
27  
or 28  
29
  - (e) not to close an interactive betting account with the racing bookmaker after the relevant person asks the racing bookmaker to close the account. 30  
31  
32  
33

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Maximum penalty—	1
(a) for an individual—20 penalty units; or	2
(b) for a corporation—200 penalty units.	3
<b>134C Betting using free bets</b>	4
(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.	5 6 7 8 9 10 11
Maximum penalty—	12
(a) for an individual—20 penalty units; or	13
(b) for a corporation—200 penalty units.	14
(2) In this section—	15
<i>free bet</i> see the <i>Betting Tax Act 2018</i> , section 7.	16
<b>134D Restrictions on direct marketing</b>	17
(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 <i>relevant person</i> ) unless—	18 19 20 21 22
(a) the relevant person has given express and informed consent to receiving promotional or advertising material directly by that means; and	23 24 25 26
(b) either—	27
(i) the relevant person has not withdrawn the consent; or	28 29

[s 63]

---

- (ii) the relevant person has withdrawn the consent but the racing bookmaker or person is not aware of the withdrawal. 1  
2  
3
- Maximum penalty— 4
- (a) for an individual—20 penalty units; or 5
  - (b) for a corporation—200 penalty units. 6
- (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— 7  
8  
9  
10
- (a) must provide the relevant person with a means to easily withdraw the consent at any time; and 11  
12  
13
  - (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. 14  
15  
16  
17  
18  
19
- Maximum penalty— 20
- (a) for an individual—20 penalty units; or 21
  - (b) for a corporation—200 penalty units. 22
- (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. 23  
24  
25  
26  
27  
28  
29  
30  
31
- Maximum penalty— 32
- (a) for an individual—20 penalty units; or 33
  - (b) for a corporation—200 penalty units. 34

- 
- (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.

[s 64]

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<b>Clause 64</b>	<b>Replacement of ch 9, hdg (Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016)</b>	1 2 3
	Chapter 9, heading—	4
	<i>omit, insert—</i>	5
	<b>Chapter 9 Other transitional provisions</b>	6 7
	<b>Part 1 Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016</b>	8 9 10 11 12
<b>Clause 65</b>	<b>Insertion of new ch 9, pt 2</b>	13
	Chapter 9—	14
	<i>insert—</i>	15
	<b>Part 2 Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2020</b>	16 17 18 19 20 21
	<b>297 Interactive betting accounts established before commencement</b>	22 23
	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	24 25 26 27

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	commencement.	1
<b>Clause 66</b>	<b>Amendment of sch 1 (Dictionary)</b>	2
	Schedule 1—	3
	<i>insert—</i>	4
	<i>interactive betting account</i> , of a person, for chapter 4, part 3A, see section 134A.	5 6
	<i>interactive bettor</i> , for chapter 4, part 3A, see section 134A.	7 8
<b>Part 10</b>	<b>Amendment of Wagering Act 1998</b>	9 10
<b>Division 1</b>	<b>Preliminary</b>	11
<b>Clause 67</b>	<b>Act amended</b>	12
	This part amends the <i>Wagering Act 1998</i> .	13
<b>Division 2</b>	<b>Amendments commencing on assent</b>	14 15
<b>Clause 68</b>	<b>Insertion of new pt 11, div 5</b>	16
	Part 11—	17
	<i>insert—</i>	18
	<b>Division 5</b> <b>Wagering inducements and direct marketing</b>	19 20

[s 68]

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<b>228A Definitions for division</b>	1
In this division—	2
<i>interactive wagering account</i> , of a person, means	3
an account—	4
(a) in the name of the person with a licence	5
operator; and	6
(b) that is accessible by means of a	7
telecommunication device under the	8
<i>Interactive Gambling (Player Protection)</i>	9
<i>Act 1998</i> , schedule 3; and	10
(c) against which the licence operator has a	11
right to debit the amount of a bet made by	12
the person.	13
<i>interactive wagering customer</i> means a person	14
who has an interactive wagering account.	15
<b>228B Prohibited inducements</b>	16
A licence operator or a person acting for a licence	17
operator must not offer, or cause to be offered, to	18
a person who is in Queensland (a <i>relevant person</i> )	19
any credit, voucher, reward or other benefit as an	20
incentive for the relevant person—	21
(a) to open an interactive wagering account	22
with the licence operator; or	23
(b) to refer another person to the licence	24
operator for the purpose of that person	25
opening an interactive wagering account	26
with the licence operator; or	27
(c) not to close an interactive wagering account	28
with the licence operator after the relevant	29
person asks the licence operator to close the	30
account.	31
Maximum penalty—	32
(a) for an individual—20 penalty units; or	33



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(b) for a corporation—200 penalty units. 1

**228C Wagering using free bets** 2

(1) A licence operator or a person acting for a licence 3  
operator must not offer, or cause to be offered, a 4  
free bet to an interactive wagering customer who 5  
is in Queensland and has an interactive wagering 6  
account with the licence operator unless the 7  
customer can withdraw payouts arising from the 8  
free bet at any time. 9

Maximum penalty— 10

(a) for an individual—20 penalty units; or 11

(b) for a corporation—200 penalty units. 12

(2) In this section— 13

*free bet* see the *Betting Tax Act 2018*, section 7. 14

**228D Restrictions on direct marketing** 15

(1) A licence operator or a person acting for a licence 16  
operator must not send promotional or advertising 17  
material directly by email, SMS message or other 18  
direct means to a person who is in Queensland (a 19  
*relevant person*) unless— 20

(a) the relevant person has given express and 21  
informed consent to receiving promotional 22  
or advertising material directly by that 23  
means; and 24

(b) either— 25

(i) the relevant person has not withdrawn 26  
the consent; or 27

(ii) the relevant person has withdrawn the 28  
consent but the licence operator or 29  
person is not aware of the withdrawal. 30

Maximum penalty— 31

[s 68]

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- (a) for an individual—20 penalty units; or 1
- (b) for a corporation—200 penalty units. 2
- (2) If the relevant person has given consent to 3  
receiving promotional or advertising material, the 4  
licence operator or a person acting for the licence 5  
operator— 6
  - (a) must provide the relevant person with a 7  
means to easily withdraw the consent at any 8  
time; and 9
  - (b) if the relevant person attempts to withdraw 10  
the consent—must not offer, or cause to be 11  
offered, to the relevant person any credit, 12  
voucher, reward or other benefit as an 13  
incentive for the relevant person not to 14  
withdraw the consent. 15
- Maximum penalty— 16
  - (a) for an individual—20 penalty units; or 17
  - (b) for a corporation—200 penalty units. 18
- (3) If the licence operator or a person acting for the 19  
licence operator sends promotional or advertising 20  
material to the relevant person electronically, the 21  
licence operator or person must provide a 22  
mechanism, including, for example, an electronic 23  
link, in the material allowing the relevant person 24  
to easily withdraw consent from receiving 25  
promotional or advertising material. 26
- Maximum penalty— 27
  - (a) for an individual—20 penalty units; or 28
  - (b) for a corporation—200 penalty units. 29
- (4) For this section, if the relevant person withdraws 30  
consent from receiving promotional or 31  
advertising material, the withdrawal takes effect 5 32  
business days, or a shorter period prescribed by 33  
regulation, after the relevant person withdraws 34

consent. 1

**228E Obligation of licence operator to identify person's location** 2  
3

(1) A licence operator must, when receiving a bet 4  
made from an interactive wagering account, take 5  
reasonable steps to identify the location of the 6  
person making the bet. 7

Maximum penalty—100 penalty units. 8

(2) For complying with subsection (1), the licence 9  
operator may rely on either of the following 10  
addresses as being the location of the person 11  
making the bet— 12

(a) for an individual—an address given to the 13  
licence operator by the individual as the 14  
individual's residential address; 15

(b) for a company within the meaning of the 16  
Corporations Act—an address given to the 17  
licence operator by or for the company as 18  
the company's principal place of business. 19

(3) However, subsection (2) does not apply if the 20  
licence operator knows, or has reasonable 21  
grounds to suspect, that an address mentioned in 22  
subsection (2)(a) or (b) is not the location of the 23  
person when the bet is made. 24

**Clause 69 Insertion of new pt 17, div 8** 25

Part 17— 26

*insert—* 27

**Division 8 Transitional provision for** 28  
**Criminal Code (Consent** 29  
**and Mistake of Fact) and** 30

[s 70]

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	<b>Other Legislation</b>	1
	<b>Amendment Act 2020</b>	2
	<b>340F Interactive wagering accounts established before commencement</b>	3 4
	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.	5 6 7 8 9
<b>Clause 70</b>	<b>Amendment of sch 2 (Dictionary)</b>	10
	Schedule 2—	11
	<i>insert—</i>	12
	<i>interactive wagering account</i> , of a person, for part 11, division 5, see section 228A.	13 14
	<i>interactive wagering customer</i> , for part 11, division 5, see section 228A.	15 16
	<b>Division 3 Amendments commencing by proclamation</b>	17 18
<b>Clause 71</b>	<b>Amendment of s 164 (Dividends)</b>	19
	(1) Section 164—	20
	<i>insert—</i>	21
	(2A) Subsections (4) and (5) apply if—	22
	(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	23 24 25 26

- 
- (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. 1  
2  
3  
4  
5  
6
- (2B) Subsection (2) does not apply in calculating the dividend. 7  
8
- (2C) For subsection (1), the amount of the dividend is taken to be an amount equal to the minimum dividend. 9  
10  
11
- (2) Section 164(3), after ‘subsection (2)’— 12  
*insert—* 13  
or (5) 14
- (3) Section 164(2A) to (3)— 15  
*renumber* as section 164(3) to (6). 16

## **Part 11**                      **Other amendments** 17

- Clause 72**      **Legislation amended** 18  
Schedule 1 amends the legislation it mentions. 19

<b>Schedule 1</b>	<b>Other amendments</b>	1
	section 72	2
	<b>Gaming Machine Act 1991</b>	3
<b>1</b>	<b>Section 281(5), ‘subsection (4)’—</b>	4
	<i>omit, insert—</i>	5
	subsection (3)	6
<b>2</b>	<b>Section 281(6), ‘subsection (5)(a)’—</b>	7
	<i>omit, insert—</i>	8
	subsection (4)(a)	9
<b>3</b>	<b>Section 281(9)(b)(i), ‘subsection (3)(b)’—</b>	10
	<i>omit, insert—</i>	11
	subsection (2)(b)	12
<b>4</b>	<b>Section 281(9)(b)(ii), ‘subsection (4)’—</b>	13
	<i>omit, insert—</i>	14
	subsection (3)	15
<b>5</b>	<b>Section 281(10), ‘subsection (9)(b)’—</b>	16
	<i>omit, insert—</i>	17
	subsection (8)(b)	18

<b>6</b>	<b>Section 281(2) to (12)—</b>	1
	<i>renumber</i> as section 281(1) to (11).	2
<b>7</b>	<b>Schedule 2, definition <i>approved game</i>, ‘section 281(8)’—</b>	3
	<i>omit, insert—</i>	4
	section 281(7)	5
 <b>Gaming Machine Regulation 2002</b>		 6
<b>1</b>	<b>Section 34, ‘section 281(8)’—</b>	7
	<i>omit, insert—</i>	8
	section 281(7)	9
<b>2</b>	<b>Section 59, ‘281(3)(a)’—</b>	10
	<i>omit, insert—</i>	11
	281(2)(a)	12
<b>3</b>	<b>Schedule 5, item 52, ‘s 281(7)(a)’—</b>	13
	<i>omit, insert—</i>	14
	s 281(6)(a)	15
 <b>Police Powers and Responsibilities Act 2000</b>		 16
<b>1</b>	<b>Schedule 6, definition <i>registered corresponding foreign procedure order</i>, ‘foreign’—</b>	17
	<i>omit, insert—</i>	18
		19

forensic

1

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