Casino Control and Other Legislation Amendment Bill 2023

Explanatory Notes

Short title

The short title of the Bill is the Casino Control and Other Legislation Amendment Bill 2023.

Policy objectives and the reasons for them

The objectives of the Bill are to:

1. facilitate the implementation of ***Recommendations 1 to 11*** of the External Review of the Queensland Operations of The Star Entertainment Group Limited (Star) which was led by the Honourable Robert Gotterson AO KC ('Gotterson Review'); and
2. implement a range of other reforms to enhance the casino regulatory framework.

Gotterson Review recommendations

In October 2021, allegations of money laundering, breaches of laws, and links to organised crime were levelled against Star which, through its subsidiaries, owns and operates Treasury Brisbane and The Star Gold Coast casinos, and will, from early 2024, operate The Star Brisbane in the Queen's Wharf Brisbane precinct. The allegations led the Queensland Government to subsequently appoint the Honourable Robert Gotterson AO KC in June 2022 to conduct a review of Star's Queensland casino operations.

The Gotterson Review found Treasury Brisbane and The Star Gold Coast were being operated by their licensees in a way that was inconsistent with the achievement of the objectives of the *Casino Control Act 1982* (Casino Control Act) by, among other things:

- allowing the illegal use of China Union Pay cards by patrons to fund gambling under the guise of accommodation expenses (and misleading the bank about the real nature of the China Union Pay transactions);
- having a deficient anti-money laundering/counter-terrorism financing (AML/CTF) program; and
- encouraging persons excluded at the direction of the Police Commissioners in New South Wales and Victoria to gamble at Treasury Brisbane and The Star Gold Coast.[1]

Although the Review's findings of impropriety related only to Star's Queensland casino operations, the Review, in accordance with its terms of reference, made 12 recommendations to restore public confidence, enhance integrity and minimise the potential for gambling harm

[1] Gotterson, R W, 30 September 2022, 'External Review of the Queensland Operations of The Star Entertainment Group Limited', paras 1 to 19 of the Executive Summary.

across all Queensland casinos. The recommendations were informed by similar casino inquiries and reviews undertaken interstate including the Bergin Inquiry into Crown Sydney (February 2021),[2] the Finkelstein Inquiry into Crown Melbourne (October 2021),[3] the Owen Inquiry into Crown Perth (March 2022),[4] and the Bell Review into The Star Sydney (August 2022)[5] which all found shortcomings in the way the respective casinos were being operated and ultimately concluded their casino licensees to be unsuitable.[6]

The Gotterson Review suggested that Queensland casinos be required to:

- introduce mandatory carded play (***Recommendation 1***);
- implement cashless gambling save for transactions of $1,000 or less (***Recommendation 2***);
- offer full, mandatory and binding pre-commitment including play and break limits (***Recommendations 3 and 4***);
- collect and make available certain carded play data (***Recommendations 5 and 6***);
- comply with a compulsory code of conduct for safer gambling (***Recommendation 8***);
- pay a supervision levy (***Recommendation 9***);
- be subject to cost recoverable periodic reviews (***Recommendation 10***); and
- take reasonable steps to establish the persons subject to interstate police commissioner initiated exclusion and exclude those persons (***Recommendation 11***).

It was also suggested legislative references to 'problem gamblers' should be replaced with more modern terminology (***Recommendation 7***), and the appointment of a special manager should be a form of disciplinary action available under the Casino Control Act against a casino entity (i.e. a casino licensee, casino lessee, casino operator) (***Recommendation 12***).

The Government provided its in principle support for the Gotterson Review recommendations on 6 October 2022 and swiftly took action to implement ***Recommendation 12*** via the *Casino Control and Other Legislation Amendment Act 2022*. Shortly after, on 9 December 2022, the Government announced a formal finding of unsuitability against the relevant Star subsidiaries, and took disciplinary action by imposing pecuniary penalties totalling $100 million; appointing a special manager to monitor Star's Queensland casino operations; and suspending the casino licences of Treasury Brisbane and The Star Gold Coast for 90 days on a deferred basis with effect from 1 December 2023.

This Bill provides the necessary legislative framework to deliver on the 11 remaining recommendations of the Gotterson Review. The policy reasons underpinning each are discussed further below.

*A) Mandatory carded play; cash limits for gambling; and full, mandatory and binding pre-commitment and play and break limits (**Recommendations 1 to 4**)*

[2] Bergin, P, A, 1 February 2021, 'Report of the Inquiry under section 143 of the Casino Control Act 1992 (NSW)'.
[3] Finkelstein, R, October 2021, 'Royal Commission into the Casino Operator and Licence'.
[4] Owen, N, Jenkins, C, Murphy, C, 4 March 2022, 'Perth Casino Royal Commission Final Report'.
[5] Bell, A, 31 August 2022, 'Review of The Star Pty Ltd – Inquiry under sections 143 and 143A of the Casino Control Act 1992 (NSW).
[6] Ibid 1, para 430.

The Gotterson Review made a number of suggestions to minimise gambling harm in Queensland casinos. Firstly, the Review recommended that Queensland casinos introduce mandatory carded play (also known as card based gaming) (***Recommendation 1***), which requires a person to swipe or tap a player card (or some other thing) before they can gamble (even if playing with cash), on the basis that it can assist with the detection of patterns of gambling which may be indicative of gambling harm, allow for the collection of particular player data, and identify and prevent self-excluders from gambling.[7] However, to be effective, the Gotterson Review noted that gamblers must only be permitted to obtain one card.[8] This means that it will be necessary for a player card to be linked to a person whose identity has been verified so that the person's gambling activities and expenditure may be isolated and specifically attributed to the person.

Secondly, the Gotterson Review advocated for cashless gambling in casinos, save for transactions of $1,000 or less (***Recommendation 2***) as a means of reducing incidences of money laundering, and enhancing the ability to trace, monitor and control patterns of gambling and gambling spend.[9] Cashless gambling involves gambling without cash and may be achieved by funding gambling transactions through for example, a player account, digital wallet, EFTPOS or the purchase of chips.

Thirdly, because limit setting may be a helpful measure to reduce gambling harm, the Gotterson Review recommended that casinos implement 'full, mandatory and binding' systems for pre-commitment at gaming machines (***Recommendation 3***), and play and break limits across all casino gambling (***Recommendation 4***).[10] A pre-commitment system is characterised as '*full'* (as opposed to partial) if all gamblers are required to enrol in the system; '*mandatory'* (as opposed to voluntary) if users are required to set limits once enrolled in the system such as with respect to duration of play, loss and/or spend; and '*binding'* (as opposed to non-binding) if the player's ability to gamble is entirely suspended when a limit is reached for the remainder of the duration of time that the limit applies.

In Queensland, card-based cashless gaming with partial, voluntary, non-binding pre-commitment is currently available in many licensed venues for machine gambling at the licensee's discretion. Players who reach their pre-defined expenditure or time limit may remove their card and continue to play anonymously using cash. This would not be able to occur under the arrangements recommended for casinos by the Gotterson Review.

*B) Use and collection of certain carded play data (**Recommendations 5 and 6**)*

According to the Gotterson Review, the success of ***Recommendations 3 and 4*** relating to full, mandatory and binding pre-commitment and play and break limit systems relies on casinos being able to monitor gambling behaviour and assist staff in recognising gambling related harm through real time data.[11] Such data may inform the steps that casinos might adopt in order to minimise gambling harm and may also assist with anti-money laundering and counter-terrorism financing responsibilities.[12]

[7] Ibid 1, para 479.
[8] Ibid 1, 481.
[9] Ibid 1, para 484 – 489.
[10] Ibid 1, para 490 – 498.
[11] Ibid 1, para 499.
[12] Ibid 1, para 501.

As the Casino Control Act does not presently require the collection of player card data, the Gotterson Review suggested that player cards collect data relating to player buy-in; player buy-out; play periods; player turnover; player losses and wins; gambling products played; and further information as may be required for anti-money laundering and counter-terrorism strategies and the promotion of safer gambling (***Recommendation 5***). The Gotterson Review recommended that such data be collected for research purposes and to inform casino staffing levels and the proper supervision of casino activities, and be made available to researchers for any future studies into gambling related harm in Queensland (***Recommendation 6***).

*C) Gambling terminology (**Recommendation 7**)*

Recommendation 7 of the Gotterson Review recommended the casino legalisation be updated to replace the terms 'responsible gambling' and 'problem gamblers' with more suitable wording to reduce stigma, shame and the implication of personal irresponsibility for gambling behaviour. The recommendation reflects current understanding that the responsibility for a person's gambling does not rest solely on that person, and that gambling providers also have a role to play in minimising harm.

*D) Compulsory code of conduct for safer gambling (**Recommendation 8**)*

There is presently no requirement under the Casino Control Act for casinos to comply with a code of conduct for safer gambling, although there is a *Queensland Responsible Gambling Code of Practice* and its associated Casinos Resource Manual which commits casinos to implement safer gambling practices but it is voluntary.

The Gotterson Review found a voluntary safer gambling regime was not sufficient to deter casino operators from engaging in conduct that may facilitate gambling related harms. Accordingly, ***Recommendation 8*** of the Gotterson Review advocated for casino operators to be compelled to observe a compulsory code of conduct for safer gambling. It was also suggested that the regulator should have regard to compliance with the code of conduct for safer gambling when undertaking suitability reviews.

*E) Supervision levy (**Recommendation 9**)*

Adequately regulating Queensland's casinos involves, among other things, ongoing probity assessment and monitoring; compliance monitoring; investigation and enforcement; complex audit activities across the full ambit of casino management and operation; revenue/tax assurance; approval of internal controls, systems and new or modified games; and policy and legislation work to ensure casino legislation adequately keeps pace with emergent operational risk. The full cost of these regulatory activities is not presently levied on Queensland casinos although they are required to pay a monthly casino tax and a quarterly licence fee. Both amounts are paid into, and form part of, the Government's consolidated fund.

The Office of Liquor and Gaming Regulation receives a budget allocation each year from which it must undertake its regulatory functions with respect to the whole liquor and gaming industry, not just casinos.

Modern casinos are more vulnerable to money laundering, criminal influence and exploitation, and have the potential to cause considerable gambling harm. For these reasons, a commensurate level of oversight of casinos is required in order to protect players and the

community and prevent criminal involvement or influence. A robust system of casino monitoring and supervision ensures appropriate accountability and in turn, promotes public confidence. Without a significant level of regulation, it is more likely that gambling harm, integrity issues, criminal influence and player fairness issues would arise.

As the casino industry benefits from being lawfully authorised to conduct casino gambling under the regulatory framework, the costs associated with such regulation should be internalised by the industry. A levy was therefore considered warranted by the Gotterson Review (***Recommendation 9***) on the basis of the user pays principle. The Gotterson Review expressly noted "it is appropriate that those who benefit financially from the casinos pay for the regulation of those activities" but warned that the levy "ought to be structured in a way that leaves no doubt that the casinos are not 'clients' of the regulator, and that they cannot control or direct that which the regulator does".[13]

Additionally, it is envisaged that the regulation of casinos will continue to become more complex and involved in the future. Over the last few years, in addition to the Gotterson Review, there have been four separate inquires and reviews into other interstate casinos following concerns raised about money laundering and other integrity issues. Each of these inquiries and reviews found substantial integrity issues.

The breadth of the issues identified by the inquiries and reviews – which related to the internal governance of listed companies, lack of money laundering controls, and engagement with organised crime – support the view that it is increasingly difficult for a single regulator to possess the wide range of knowledge and skills needed to regulate casinos. It is reasonable to expect that the regulator may need to engage specialist services or resources to discharge its regulatory functions. A dedicated levy would assist to ensure that the proper regulation of casinos is not hindered by resource constraints.

*F) Cost recoverable periodic reviews into casino operations and suitability (**Recommendation 10**)*

Recommendation 10 of the Gotterson Review suggested that similar to the approach adopted in New South Wales, there ought to be cost recoverable periodic reviews of casino operations in Queensland, including in relation to the suitability of casino entities and their relevant associates. Under the New South Wales *Casino Control Act 1992*, casino licence reviews are required to be conducted every five years by way of a royal commission like inquiry into the suitability of the casino operator and whether it is in the public interest that the casino licence should continue in force.

The Gotterson Review considered that adopting the New South Wales approach in Queensland would permit investigations to be commissioned as and when circumstances require and to ascertain periodically whether each casino operator is still a suitable person to be associated with the relevant casino licence. Additionally, having periodic suitability reviews would likely encourage casino licensees and their relevant associates to be vigilant in maintaining their good repute and integrity, and in continuing to be honest.[14]

[13] Ibid 1, para 576.
[14] Ibid 1, para 583.

The Casino Control Act provides for inquiries to be conducted into the operation of casinos at any time. However, there are some limitations including the fact that the Minister is restricted to appointing the chief executive or another departmental officer to hold the inquiry; and there is no requirement to conduct an inquiry on a periodic basis. Amendments are therefore required to enhance the inquiry powers so they are fit for purpose and allow them to be used to conduct periodic, cost recoverable reviews and on other occasions as circumstances warrant.

*G) Interstate police commissioner exclusions (**Recommendation 11**)*

The Gotterson Review found Star:

- was deficient in acting on exclusion directions made by interstate police commissioners without a demonstrably good reason;
- offered incentives to persons who were the subject of exclusion directions made by interstate police commissioners to gamble in Queensland; and
- only retrospectively applied a policy it adopted in 2019, which required persons to be excluded from its Queensland casinos where those persons are the subject of an exclusion from The Star Sydney, several years later in 2021.[15]

These actions exposed Star's Queensland casinos to the risk of criminal infiltration or influence. The Gotterson Review noted that if the most senior police officer in another state forms a view that particular persons ought not be permitted entry to the casino in that state, it is unlikely that the circumstances leading to the exclusion of such persons in that state would have any less importance in the Queensland context.[16] Consequently, it recommended that casino operators be required to make reasonable endeavours to ascertain the persons subject to exclusion directions of police commissioners in other Australian jurisdictions, and take reasonable steps to effect the exclusion of such persons from the casinos they control (***Recommendation 11***).

Currently, the Casino Control Act provides for four types of exclusions. A 'self-exclusion' occurs when a person elects to exclude themselves from entering or remaining in a casino and is excluded by the casino operator under a self-exclusion order under section 91O. A 'general casino-initiated exclusion' occurs when a person is excluded by the casino operator under section 92 for prescribed reasons such as for engaging in dishonest acts in relation to gaming; acting in a way that is affecting the proper conduct or integrity of gaming, or the safety or wellbeing of other persons in the casino; or engaging in unlawful conduct. An 'exclusion direction' under section 93A is a casino-initiated exclusion of a person if the casino operator believes the person is a problem gambler. An 'exclusion at the direction of the Police Commissioner' (also known as a Queensland Police Commissioner-initiated exclusion) under section 94 is an exclusion that the casino operator is obligated to implement due to a direction by the Queensland Police Commissioner.

A fifth type of exclusion issued by a Queensland casino operator, based on interstate exclusions made at the direction of, or initiated by, an interstate police commissioner, is required to give effect to ***Recommendation 11***.

[15] Ibid 1, paras 219, 200, 231, 595.
[16] Ibid 1, paras 209 – 219.

Other casino reforms

To further enhance the regulatory framework that aims to ensure that on balance, the State and the community as a whole benefit from casino gambling, the Bill amends the Casino Control Act and Casino Control Regulation 1999 (Casino Control Regulation) as relevant to:

- solidify the control on the use of cash and tickets for gambling in casinos;
- impose a new duty on particular officers of casino operators and holding companies of casino operators to encourage the exercise of due diligence in the oversight of casino operations;
- increase penalties under the casino control legislation;
- provide the chief executive with real time access to the casino operators' electronic systems;
- modernise how inspectors obtain information;
- remove redundant legislative references to casino based keno games;
- allow minors and excluded persons found on casino premises to remain on premises if they are assisting a casino inspector or police officer in the performance of their functions; and
- permit the sharing of exclusions information among casino operators.

While these additional reforms do not relate to the recommendations of the Gotterson Review, they are considered to align with the intent of the recommendations and seek to where relevant:

- increase accountability, promote good governance and foster cultural change within casino entities in light of the adverse findings of the Gotterson Review and similar casino inquiries and reviews undertaken interstate;
- strengthen regulatory powers necessary for effective monitoring, investigation and enforcement; and
- ensure the Queensland casino legislation framework remains fit for purpose and is future proofed.

Achievement of policy objectives

Objective: To facilitate the implementation of *Recommendations 1 to 11* of the Gotterson Review

*A) Mandatory carded play; cash limits for gambling; and full, mandatory and binding pre-commitment and play and break limits (**Recommendations 1 to 4**)*

The Bill provides a framework under which the requirements for carded play, cash limits, and pre-commitment and play and break limits are defined and activated by regulation. This flexible approach allows for a staged implementation of the measures associated with ***Recommendations 1 to 4***, and ensures their application can be enhanced and expanded over time, particularly as technology evolves, to maximise their harm minimisation benefits.

The framework proposed by the Bill does not, however, apply to keno and wagering conducted in casinos under agency agreements with the respective keno and wagering licensees under the *Keno Act 1996* (Keno Act) and *Wagering Act 1998* (Wagering Act). It is

not currently proposed to apply the reforms to these activities as they are not primarily regulated under the Casino Control Act, and relevant systems are not owned by the casino operator but by the entities licensed under the Keno Act and Wagering Act. Additionally, issues regarding the feasibility of interaction between systems would need to be addressed, taking into account that any casino-related wagering controls could easily be avoided by a person choosing to place bets on their phone with a wagering provider of their choice while in the casino.

Mandatory carded play

Specifically, to facilitate mandatory carded play as recommended by ***Recommendation 1*** of the Gotterson Review, the Bill amends the Casino Control Act to provide that a regulation may provide that a person must not be allowed to play a stated game or carry out a stated activity associated with playing a game in a stated casino other than by use of a player card in accordance with the regulation. The regulation may prescribe a range of matters relating to player cards including, for example, in relation to their issue, cancellation, and deactivation.

To ensure the proper use of player cards, the Bill provides for the following offences:

- a casino operator must ensure a person does not play a prescribed game or carry out a prescribed activity in the casino other than by use of a player card in accordance with the regulation;
- a casino operator must not allow a person to use a player card that the casino operator knows, or ought reasonably to know, was issued to someone else;
- a person must not play a prescribed game or carry out a prescribed activity in a casino other than by use of a player card in accordance with a regulation, use a player card that belongs to someone else, or allow someone else to use the person's player card.

In order to protect players from unwanted gambling promotions and advertising, the Bill prohibits a casino operator from sending promotional or advertising material directly to a person in Queensland unless the person has given their express and informed consent. A casino operator must not require a person to give consent as a condition of registering the person for, or issuing the person with, a player card.

Cash limits for gambling

To facilitate compulsory cashless gambling for transactions over a certain amount as contemplated by ***Recommendation 2*** of the Gotterson Review, the Bill provides that a regulation may prescribe a maximum limit on the amount of cash transactions that a person may carry out in a prescribed casino within a 24-hour period.

Full, mandatory and binding pre-commitment and play and break limits

To facilitate the implementation of ***Recommendations 3 and 4*** of the Gotterson Review as it relates to full, mandatory and binding pre-commitment and play and break limits, the Bill provides that a regulation may provide that a person must not be allowed to play a stated game or carry out a stated activity associated with playing a game in a stated casino other than under a pre-commitment system in accordance with the regulation. The regulation may prescribe a range of matters relating to a pre-commitment system including, for example, the types of pre-commitment limits which must be made available, how pre-commitment limits

are to be measured, and the periods to which pre-commitment limits apply, and ways of accessing a pre-commitment system. The Bill also provides that pre-commitment systems must be approved by the chief executive.

A casino operator must ensure a person does not play a prescribed game or carry out a prescribed activity in the casino other than under a pre-commitment system in accordance with the regulation. A maximum penalty of 200 penalty units applies for a breach.

*B) Use and collection of certain carded play data (**Recommendations 5 and 6**)*

In order to ensure that particular carded play data is collected as contemplated by ***Recommendation 5*** of the Gotterson Review, the Bill amends the Casino Control Act to provide that a regulation may prescribe requirements relating to the collection of information in the course of issuing or using player cards and the storage, use and disclosure of the information. The chief executive may also, by written notice to the casino operator, request that player cards are capable of securely recording and transferring any other information that is required for the administration or enforcement of the Act in relation to the casino, or research (by the chief executive or another entity) into harm from gambling.

To enable carded *play* data to be used for gambling research as suggested by ***Recommendation 6*** of the Gotterson Review, the Bill imposes a requirement on casino operators to submit regular reports, in the approved form, to the chief executive containing deidentified carded play information prescribed by regulation. The Bill provides that the chief executive may give de-identified player card information to an entity for the purpose of research into harm from gambling.

For maximum flexibility, the Bill also introduces the power for the chief executive to direct a casino operator to provide specific carded play information under new section 72J in addition to the regular reporting requirement. The requested information may be deidentified or not, depending on the conditions specified in the chief executive's written notice. Information by which a person may be identified that is received via such a request must not, without regard to the confidentiality requirements of section 14 of the Casino Control Act, be shared by the chief executive with a third party to ensure the identity of patrons and details about their gambling activities are kept private. In any event, a requirement by the chief executive to provide requested information under new section 72J for research into harm from gambling must be for the provision of de-identified player card information.

As the Bill does not enable mandatory carded play to be applied to keno and wagering conducted in casinos, the obligations relating to the use and collection of carded play information also do not apply to these activities.

*C) Gambling terminology (**Recommendation 7**)*

The Bill implements ***Recommendation 7*** of the Gotterson Review and extends its application more broadly by updating all Queensland gambling legislation where required to replace terms that may stigmatise or shame certain persons, or imply sole personal responsibility for gambling problems rather than a shared responsibility with gambling providers. The Bill does this by amending the Casino Control Act, Wagering Act and Keno Act, as well as the *Gaming Machine Act 1991* (Gaming Machine Act) and the Gaming Machine Regulation 2002 (Gaming Machine Regulation) to replace the terms 'problem gambler' with 'persons

experiencing harm from gambling' or 'persons adversely affected by, or at risk of, harm from gambling' depending on the context. The Bill also amends the Casino Control Act and Gaming Machine Act to replace the terminology 'responsible gambling' with 'safer gambling'.

The amendments align with a public health-focussed approach to preventing and minimising gambling harm and are based on contemporary research which indicates that stigma impedes help-seeking by persons suffering gambling harm. They are additionally consistent with the Queensland Government's Gambling Harm Minimisation Plan for Queensland 2021-25 which supports an integrated whole-of-system approach that moves away from a focus on individual pathology, and reflects current understanding that gambling providers also have a role to play in minimising harm.

As a result of the terminology changes, the Bill makes consequential amendments to the requirements for gaming machine licensing applications of significant community impact under the Gaming Machine Act. Currently, such applications must be accompanied by a statement of responsible gambling initiatives for the licensed premises or proposed licensed premises to help the Commissioner assess the adequacy of the applicant's approach to encouraging responsible gambling. The Bill replaces the requirement for a statement of responsible gambling initiatives with a statement of safer gambling initiatives. The purpose of the statement of safer gambling initiatives will be to help the Commissioner assess the adequacy of the applicant's approach to providing a safer gambling environment for patrons. This means that applicants will be required to demonstrate how they provide a safer gambling environment rather than how they encourage patrons to gamble responsibly.

The terms 'problem gambling' and 'gambling problems' where they appear in Queensland gambling legislation are not amended by the Bill as these phrases are not considered to stigmatise or imply sole personal responsibility for gambling issues.

*D) Compulsory code of conduct (**Recommendation 8**)*

The Bill introduces a regulation making power under the Casino Control Act which will allow a regulation to be made to provide for a compulsory code of conduct for casino operators as intended by ***Recommendation 8*** of the Gotterson Review. The code may impose obligations on casino operators and their employees and agents for the purpose of ensuring safer gambling in casinos. The code may also impose obligations for the purpose of ensuring the appropriate conduct of casino operations and the implementation of appropriate practices, systems and procedures relating to the governance, accountability and integrity of casino operators. This will allow the resultant code to deal with the other kinds of issues highlighted by the Gotterson Review, like poor risk management and deficiencies in corporate culture. Applying a code via regulation rather than primary legislation will also ensure the requirements can be readily updated to stay abreast of new technologies, research into gambling harms, and any emergent governance issues in the industry.

*E) Supervision levy (**Recommendation 9**)*

The Bill amends the Casino Control Act to provide for an annual supervision levy in line with ***Recommendation 9*** of the Gotterson Review. The levy will be used to fund the regulation and oversight of casinos in a way that promotes the object of the Act, and programs aimed at reducing harm from gambling in Queensland. Part of the justification for enabling a portion

of the levy to be used to fund programs aimed at reducing harm from gambling in general is that most legalised gambling – casino gaming, machine games, wagering and keno – are conducted within casinos. To do so is also consistent with the object of the Casino Control Act which is to ensure the State and the community as a whole benefit from casino gambling.

The Bill specifies that revenue received from the levy, including penalties on late payment, is a controlled receipt for the *Financial Accountability Act 2009*. This will provide the regulator with the greatest amount of administrative flexibility to determine the appropriate use of the levy including for a broader range of harm minimisation activities beyond those that solely relate to casino gambling.

The total amount of the levy, to which all casino operators must contribute, will be fixed by the Minister before the commencement of each financial year and will be notified on the department's website. The Bill enables the Minister to fix the total amount of the levy after the commencement of a financial year if required, and for the amount to be applied retrospectively to that year if this is the case.

The Bill provides that a regulation will define the proportion of the levy that each casino licensee is required to pay. Before recommending the making of a regulation prescribing the proportion of the levy payable by a casino licensee for a financial year, the Minister may have regard to the actual or estimated total casino gross revenue for the casino for one or more previous financial years and the actual or estimated total casino gross revenue for all casinos for the same period.

The levy is payable in quarterly instalments. The chief executive will issue a contribution notice to each casino licensee which details the amount of the levy the casino licensee must pay for the financial year, and when the quarterly instalments must be made. Instalments may be required to be paid in advance.

The levy replaces the quarterly licence fee. However, it is in addition to other existing fees and taxes required to be paid under the Casino Control Act including casino tax; the costs for conducting suitability investigations into proposed or current casino entities and their associates; the costs for taking disciplinary action against a casino entity; the fees for evaluating gaming equipment and assessing individual employee licence applications; and the costs relating to a special manager. The levy is also additional to the costs for conducting periodic reviews and any commissions of inquiry under the Casino Control Act.

This approach ensures that regulatory services which are driven by casino operations remain recoverable, and high expense items such as the costs of conducting suitability investigations or for taking disciplinary action (which are circumstance-dependent and may therefore not be incurred every year) do not inflate the quantum of the levy beyond what would reasonably be expected for an average year. It also mitigates the risk of a shortfall to the regulator as high expense items are separate to the levy.

The Bill provides for the levy framework to be reviewed within three years after commencement, and then thereafter at intervals of not more than five years.

*F) Cost recoverable periodic reviews into casino operations and suitability (**Recommendation 10**)*

In order to implement ***Recommendation 10*** of the Gotterson Review, the Bill amends the Casino Control Act to provide that the chief executive must cause to be conducted full reviews for each casino licence at intervals of not more than five years unless otherwise postponed by a regulation. For each casino licence, the full reviews must include an inquiry into the operation of the casino (including matters relating to corporate governance); the suitability of each casino entity to be associated or connected with the management and operations of the hotel-casino complex or casino; the compliance of each casino entity with the Casino Control Act, and relevant agreement Act and casino agreement; and whether it is in the public interest that the casino licence (and if applicable, casino management agreement and casino lease) remain in force.

The Bill makes it clear that a review of the suitability of a casino operator must take into consideration the casino operator's compliance with any code of conduct which may be prescribed under new section 126A.

The Bill grants the chief executive with the power to appoint any appropriately qualified person to carry out a review. In the conduct of a review, the reviewer has the ordinary commission powers under the *Commissions of Inquiry Act 1950* (COI Act). The reviewer also has special commission powers, normally only given under the COI Act to a commission whose chairperson is Supreme Court judge, if the reviewer is a Supreme Court judge or an Australian lawyer of at least seven years standing and the reviewer's appointment states that the reviewer has the special commission powers.

The reviewer must give a report of the review to the Minister and chief executive. The chief executive may, in turn, publish the report as the chief executive considers appropriate. The report may be published in full or in part.

The Bill makes clear that the chief executive is able to undertake a review about any matter relating to a casino licence at any time outside of the timeframes for a full review as circumstances warrant.

The costs incurred in relation to a full review or any other review conducted outside the full review timeframes may be recouped from the casino licensee (and if applicable, the associated casino operator and casino lessee).

*G) Interstate police commissioner exclusions (**Recommendation 11**)*

The Bill implements ***Recommendation 11*** by introducing a fifth type of exclusion that must be initiated by a casino operator if the casino operator is aware a person is the subject of an interstate exclusion. An interstate exclusion is defined to mean an order, direction or notice (however described) that is made or given by an interstate police commissioner and excludes, or requires another entity to exclude, a person from an interstate casino or a place at an interstate casino.

The Bill obligates a Queensland casino operator to issue an exclusion notice to a person who is the subject of an interstate exclusion prohibiting them from entering or remaining in the operator's Queensland casino (or casinos) as soon as it is practicable if the casino operator can establish the address of the person, and in any case, immediately when the casino operator becomes aware the person has entered, or is trying to enter, the casino/s.

The obligation to issue an exclusion notice to a person who is the subject of an interstate exclusion does not apply if the casino operator cannot establish the person's identity after making all reasonable enquiries.

Within 14 days after becoming aware that a person is the subject of an interstate exclusion, a casino operator must notify the chief executive and the Queensland Police Commissioner whether, among other things, the casino operator has given the person an exclusion notice or if the casino operator has not given the person an exclusion notice, then the enquiries the casino operator has made to establish the person's identity.

The casino operator must also notify each other Queensland casino operator about a person immediately after the casino operator becomes aware that the person is the subject of an interstate exclusion or if the casino operator cannot establish the person's identity at that time, immediately after establishing the person's identity.

A casino operator must additionally keep a register of persons who the casino operator is aware are the subject of an interstate exclusion and take any other steps which may be prescribed under a regulation to effect the person's exclusion from the casino operator's Queensland casinos.

A casino operator will not be required to exclude a person who is the subject of an interstate exclusion if the person to be excluded is already the subject of an exclusion notice issued at the direction of the Queensland Police Commissioner under new section 94 of the Act or is already the subject of an exclusion notice issued because of another existing interstate exclusion. This is to avoid obligating a casino operator to exclude persons who are already adequately excluded based on police considerations.

A person who has been issued an exclusion notice on the basis of an interstate exclusion faces penalties for entering or remaining in the casino.

Under the Bill, an exclusion notice issued to a person who is the subject of an interstate exclusion may only be revoked, at the casino operator's discretion, after the interstate exclusion ceases to have effect, or earlier if the casino operator has obtained the written permission of the Queensland Police Commissioner. If the casino operator intends to revoke the exclusion notice after the interstate exclusion ceases to have effect, notification must be provided to the Queensland Police Commissioner at least 30 days in advance. The purpose of the notification is not to seek the Queensland Police Commissioner's approval to revoke the exclusion notice, but rather to provide the Queensland Police Commissioner an opportunity to consider the circumstances and, if required, issue a direction under new section 94 of the Act requiring the casino operator to exclude the person under a Queensland Police Commissioner-initiated exclusion.

The Bill also provides that a casino operator must not give, or offer to give, a person an inducement to enter or remain in the casino if casino operator knows, or ought reasonably to know, that the person is the subject of an interstate exclusion.

Objective: To implement a range of other reforms to enhance the casino regulatory framework

A) Solidify the control on the use of cash and tickets for gambling in casinos

Currently, the Casino Control Act contains references to 'cash' as a means of purchasing gaming chips; making payments for winning wagers; redeeming chips or chip purchase vouchers; making a deposit into a player account; paying a person the amount in their player account; and for redeeming a cheque.

The Bill removes these references to 'cash' to ensure appropriate controls over the use of cash in casinos, and to future proof the Casino Control Act to avoid stagnant references to cash should casinos become entirely cashless businesses in the future. Existing provisions under the Casino Control Act which provide the chief executive with the discretionary power to approve 'other payment methods' can still be relied on to provide for cash use where needed and appropriate. The Casino Gaming Rule will also be able to provide for the use of cash in contexts relevant to specific games where required.

For the same reason, and with the same considerations, express authorisations regarding the use of tickets as a payment method are also removed from the Casino Control Act under the Bill, but may be approved for use by the chief executive. To provide certainty for operators, a transitional provision provides deemed chief executive approval for the use of cash and tickets in all circumstances currently authorised by the Casino Control Act. The deemed authorisation applies until revoked by the chief executive for the particular casino.

B) Impose a new duty on particular officers to encourage the exercise of due diligence in the oversight of casino operations

The Gotterson Review found some of the deficiencies that occurred at Treasury Brisbane and The Star Gold Coast could be attributed to poor corporate culture and a failure of those responsible to intervene.[17] Following the Gotterson Review, the Australian Securities and Investments Commission (ASIC) commenced proceedings against a number of former executive officers of Star for alleged contraventions of their duty to exercise their powers and discharge their duties with care and diligence as required under section 180 of the *Corporations Act 2001* (Cth) (Corporations Act). ASIC alleged that various executive officers failed to appropriately escalate money laundering issues to the Board; failed to adequately address the money laundering risks that arose from dealing with certain junket operators (also known as junket promoters)[18] and continued to deal with them despite becoming aware of their criminal links; and knowingly permitted misleading statements to be provided to the bank about the use of the China Union Pay cards.

In order to ensure proper management of casinos and better influence the organisational culture, the Bill amends the Casino Control Act to impose a new duty on particular officers of casino operators and holding companies of casino operators. It is intended that the new duty applies to high level executive officers and other persons who make, or have the capacity to make, decisions that affect a substantial part of the business. Accordingly, the Bill applies the definition of 'officer' as defined under section 9 of the *Corporations Act 2001* (Cth).

[17] Ibid 1, paras 7, 292.

[18] A junket is an arrangement whereby a person is, or a group of persons are, introduced to a casino by a junket promoter or a junket promoter's representative to participate in gaming. In return, the casino operator pays the promoter a commission based on the amount the person/s gamble at the casino or the revenue derived from the person/s.

The new duty involves taking reasonable steps to ensure there are appropriate controls and procedures in place to ensure certain matters including that the casino operator operates the casino lawfully; the lawfulness of the casino operator's operation of the casino is regularly reviewed; and the casino operator properly engages with employees in relation to matters that impact on the provision of a safer gambling environment.

The duty additionally involves taking reasonable steps to create and maintain a corporate culture that does not direct, encourage, tolerate or lead to non-compliance by the casino operator with its regulatory obligations; acquire and keep up-to-date knowledge of matters relevant to the lawful operation of a casino; and gain an understanding of casino operations and the risks associated with such operations.

The Bill provides that an officer's office and the extent to which the officer is in a position to influence the operation of the casino must be taken into consideration by a court when determining whether an officer has discharged their duty.

It is intended that the imposition of the new duty, coupled with a serious maximum penalty of 1,000 penalty units, will encourage high level officers to take more proactive steps to monitor, audit and review the casino entity's operations and compliance. Officers will not be able to diminish their duty by delegating responsibility or plead ignorance that they were not informed of a particular matter.

While there is likely to be some overlap between the new duty under the Casino Control Act and the general duty to exercise care and diligence under the Corporations Act, the duty under the Casino Control Act provides more specificity around what is expected of directors and other officers in the casino context.

C) Provide the chief executive with real time access to the casino operators' electronic systems

Inspectors currently have a range of powers under the Casino Control Act to enter and remain on casino premises, view casino operations and inspect equipment, chips and records. The Minister may also give a casino entity a direction in relation to the management, supervision or control of any aspect of the operation of a casino.

The Bill enhances these existing powers by providing that the casino operator must give the chief executive full access in real time, or as close to real time as is practicable, to particular electronic systems used by the casino operator such as those used to facilitate the calculation of taxes or levies payable under the Casino Control Act, and monitor the conduct of gambling, the financial operations of the casino, the operation of gaming machines and other gaming equipment. This will allow the chief executive to independently access information that is crucial to assessing the casino operator's compliance with regulatory obligations.

The Bill provides that information accessed in this manner can be used as evidence in a relevant proceeding against the casino operator.

D) Increase penalties under the casino control legislation

The Bill increases the maximum penalties for over 60 offence provisions under the Casino Control Act and Casino Control Regulation to ensure:

- the penalties are commensurate with the nature of the offences and the harms that may arise from a breach;
- community expectations that penalties should act as a suitable deterrent against inappropriate conduct are met;
- penalties are not seen by casinos, given the profits generated by casino gaming, as an acceptable cost of doing business.

The increase to the penalties was informed by a review undertaken by the Department of Justice and Attorney-General which took into account the perceived seriousness of each offence, the number of breaches by casino operators for an offence, the penalties for equivalent offences in New South Wales and Victoria, and comparable penalties under other Queensland gambling Acts. The review, for example, found that a number of penalties under the Casino Control Act were much lower than the equivalent penalties for other gambling operators such as licensed clubs and hotels regulated under the Gaming Machine Act. Generally, in most cases, lower penalties for casinos were not considered to be justified given the more expansive nature of casino operations.

The Bill increases the maximum penalties for, among other things, offences under the Casino Control Act relating to the timely provision of information to the regulator and financial management and reporting as they are relevant to casino integrity matters recently unearthed by inquiries in a number of Australian jurisdictions including Queensland.

The Bill also increases all maximum penalties prescribed under the Casino Control Regulation to 20 penalty units (generally the maximum allowable in subordinate legislation). Existing maximum penalties of 10 penalty units, as currently prescribed, are not likely to represent any significant deterrent to offending by casino operators.

E) Modernise how inspectors obtain information

The Bill modernises how inspectors obtain information under the Casino Control Act in two respects. Firstly, the Act currently appears to unreasonably limit inspector powers by appearing to only allow an inspector to request a person who has in their possession or control gaming equipment, chips or records to produce them for inspection (and answer questions or supply information with respect to such equipment, chips or records) in person. The Act does not enable an inspector to seek for the person to meet the request in another way such as by post, fax, email or electronically (including by supplying information in USB and hard drives).

The Act similarly only enables an inspector to require a casino entity, licensed casino employee or other person associated with the operation or management of a casino to attend before the inspector to answer question or supply information with respect to the operation of a casino. The power does not afford the inspector with the ability to request that the answer or information be supplied in another way, such as in writing.

The Bill amends the Act to enable an inspector to exercise those request powers in a more flexible manner by directing the production of the relevant things or the supply or provision of information by a stated time and in a stated way.

Secondly, the Casino Control Act presently requires an inspector to produce their identity card before exercising a power under the Act or display their identity card when exercising a power. If it is not practicable to do so, an inspector must still produce their identity card for inspection at the first reasonable opportunity. These existing requirements are impractical, inefficient and not conducive to a modern regulatory approach which sometimes relies on electronic and postal forms of communication.

The Bill amends the Casino Control Act to provide that in exercising a power under the Act in relation to a person in the person's presence, an inspector must produce their identity card for the person's inspection before exercising the power or have their identity card displayed so it is clearly visible to the person when exercising the power. This obviates the need for an inspector to produce their identity card when exercising a power by formal written notification. In removing the requirement for an inspector to produce their identity card when exercising a power in writing, the Bill does not prevent the person on whom the power is being exercised from freely requesting the inspector to provide proof of identity before complying with the inspector's written instructions.

F) Remove redundant legislative references to casino based keno games

The conduct and playing of keno was once restricted to casinos under the Casino Control Act. As a result of demand for the product, the Keno Act was subsequently enacted to provide a regulatory framework for the expanded availability of keno by a keno licensee and its agents into other Queensland gambling venues including licensed clubs, hotels and TAB agencies. Since then, casino operators have opted to conduct keno under an agency agreement with the keno licensee under, and subject to, the Keno Act.

The Casino Control Act still contains legacy provisions from when keno was conducted solely within the casino environment. For example, the Act continues to make an unnecessary distinction between 'agency related keno game' and 'casino based keno game'. The Bill removes obsolete references to 'casino based keno game' in the schedule of the Casino Control Act.

The Casino Control Act also provides that a claim for payment of a prize for a casino based keno game must be made within five years after the day on which the game is conducted. The provision is no longer required because a similar provision imposing the same timeframe exists under the Keno Act in relation to an approved keno game. In conducting keno as keno agents, casino operators would be required to abide by the Keno Act. As casino based keno has not been conducted for at least five years, no claims for payment of a prize for a casino based keno game can be made.

G) Allow minors and excluded persons found on casino premises to remain on premises if they are assisting a casino inspector or police officer with an investigation

The Casino Control Act prohibits excluded persons and minors from entering or remaining on casino premises. Penalties apply to both the person and the casino operator (and its employees and agents) if the prohibition is breached.

Consequently, where an excluded person or minor found in breach of entering or remaining in a casino is required to be investigated (such as by being interviewed) by an on-duty casino inspector or police officer, the investigation is conducted away from the casino premises,

usually outside the casino entrance or in a non-licensed area of the casino. This situation is less than ideal because the person being investigated is afforded little privacy.

Office facilities that are normally used by the onsite casino inspectorate and Queensland police are located within the casino footprint. Relocating the office facilities to a non-licensed area within a hotel-casino complex or outside a hotel-casino complex altogether purely to accommodate excluded persons and minors would be impractical and costly.

The Bill therefore amends the Casino Control Act to enable an excluded person or minor found in breach of entering or remaining in a casino to continue to remain in the casino if the excluded person or minor is assisting a casino inspector or police officer in the performance of the casino inspector's or police officer's functions. To be clear, the purpose of the amendments introduced by the Bill is not to enable an excluded person or minor to enter a casino for the purposes of assisting a casino inspector or police officer in the performance of their functions. Rather, the purpose is to allow an excluded person or minor detected in breach of the requirement not to enter or remain on casino premises to remain in the casino to assist a casino inspector or police officer in the performance of the casino inspector's or police officer's functions.

H) Permit the sharing of exclusions information among casino operators

A casino operator has a common law right to withdraw a common law licence it has granted to a person to enter casinos the operator operates. A casino operator also has a statutory authorisation under section 92 of the Casino Control Act to exclude a person for prescribed reasons including that the casino operator believes on reasonable grounds the person has engaged in dishonest acts in relation to gaming; acted in a way affecting or potentially affecting the proper conduct or integrity of gaming, or the safety or wellbeing of the person or other persons in the casino; or engaged in unlawful conduct. If a casino operator believes on reasonable grounds that the safety of a dependent is at risk because of the person's presence in the casino, the casino operator may also exclude the person.

As the reasons for excluding a person from one casino is likely to be of interest and potential relevance to another casino, the Bill enhances the exclusions framework by allowing casino operators to notify other Queensland casino operators about any exclusions they have implemented via a general casino-initiated exclusion under section 92 of the Casino Control Act, or a common law withdrawal of licence. The intent of the amendments is not to compel casino operators to exclude a person based on the person's exclusion from another casino under a section 92 exclusion or a withdrawal of licence, but to instead require casino operators to exercise due diligence regarding the person in the context of their exclusion from another casino. To this end, the Bill requires that a casino operator who receives notification about the exclusion of a person from another casino must record the details of the notification in a register; consider whether the person should also be excluded from the casino operator's casino; and record in the register the details of the decision.

Alternative ways of achieving policy objectives

As casinos are regulated under the Casino Control Act and Casino Control Regulation, the policy objectives of the Bill can only be achieved by legislative amendment.

Amendments to gambling terminology under the Gaming Machine Act, Gaming Machine Regulation, Wagering Act and Keno Act can also only be achieved through legislative change.

Estimated cost for government implementation

Amendments to facilitate the implementation of *Recommendations 1 to 11* of the Gotterson Review

Queensland casinos will be expected to bear the costs associated with meeting the Gotterson Review recommendations which may include investing in cased-based gaming, pre-commitment and cashless technology and systems, training, and additional staffing resources. They will also be required to cover the costs of periodic reviews and pay an annual supervision levy which will be used to fund the regulation and oversight of casinos and programs aimed at reducing harm from gambling. There is therefore expected to be no additional cost to the Queensland Government.

Amendments to implement other reforms to enhance the casino regulatory framework

Any costs incurred by the Office of Liquor and Gaming Regulation to update its systems and train staff on the reforms will be met from the supervision levy.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (Legislative Standards Act). Particular clauses in the Bill which raise concerns in relation to FLPs are discussed below.

Mandatory carded play and the collection and use of carded play data

Clause 43 – Insertion of new Part 6, Division 2

A) Delegation of certain matters to regulation

Pursuant to section 4(2)(b) of the Legislative Standards Act, legislation should have sufficient regard to the institution of Parliament. Section 4(4)(a) provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons. The greater the level of potential interference with individual rights and liberties or the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament.

Currently, voluntary card-based cashless gaming is available in many clubs, hotels and casinos for gaming machine gambling at the licensee's discretion. The Bill provides a regulation making power under the Casino Control Act to prescribe if and when mandatory carded play commences in Queensland casinos; the games and activities which are captured by the obligation; and the way in which mandatory carded play is to be implemented. This flexible approach is necessary because while the technology for card-based gaming is well developed for gaming machines, it is less so for table games at present. However, it is likely

that technical feasibility will increase over time and a regulation may be more flexibly amended to enhance and expand the application of mandatory carded play to capture the technological advances.

In any event, a number of matters proposed to be prescribed by regulation in relation to mandatory carded play would generally be matters considered more suitable for subordinate legislation than primary legislation. These matters relate to, for example, the procedures for issuing player cards; the way a player card must be used to play a game; and the collection, storage, use and disclosure of information through carded play. Subordinate legislation is preferred where a matter is technical or detailed in nature as will be the case with the procedural or operational requirements relating to carded play. Further, it will allow for appropriate consultation to occur with casino operators and other stakeholders before prescribing the actual procedural or operational requirements.

B) Restriction on gambling via mandatory carded play

The Bill inserts a power under the Casino Control Act to enable a regulation to restrict the ability for players to freely engage in the lawful activity of gambling without a player card. On its own, the regulation making power does not directly impose any limitations on gambling. However, a regulation, if made, to prohibit gambling without a player card could arguably be considered to unduly restrict gambling. Section 4(2)(a) of the Legislative Standards Act provides that legislation should have sufficient regard to the rights and liberties of individuals. Generally, legislation should not, without sufficient justification, unduly restrict ordinary activities. This is a relevant consideration in determining whether legislation has sufficient regard to the rights and liberties of individuals.

The potential FLP breach is justifiable because mandating identity-linked carded play removes anonymity and increases traceability of gambling transactions even for those gambling transactions involving cash. Improved data analytics in turn, reduces the opportunities for money laundering. The alternative, a voluntary system under which player cards are optional as is currently the case, would not be effective in addressing money laundering as criminals would simply avoid registering for a card.

If introduced, mandatory player cards will additionally enable casino operators to gain a better understanding of the gambling behaviours of its patrons to identify those who may be experiencing problems with gambling. Mandatory player cards are instrumental for implementing ***Recommendations 3, 4, 5 and 6*** of the Gotterson Review as they relate to mandatory pre-commitment, the tracking of a player's expenditure towards pre-determined limits, and the collection and use of carded play data.

Although a restriction on individual rights and liberties should ideally be prescribed in an Act of Parliament, in this case, it is considered that the potential FLP is justified by the need for a flexible approach in order to, as explained above, maximise the harm minimisation benefits of mandatory carded play.

C) Impacts on privacy

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation should have sufficient regard to the rights and liberties of individuals. The right to privacy is a relevant consideration to whether legislation has sufficient regard to individual rights and liberties.

The regulation making power with respect to carded play does not, in and of itself, impact on privacy. However, if a regulation is introduced to mandate carded play, there will likely be privacy impacts.

Currently, where card-based gaming is available in a Queensland licensed venue, players have the option to sign up for a registered card or unregistered card. A registered card may only be issued to a person who is at least 18 years old, and not subject to an exclusion order. Their identity and place of residence must also have been verified. An unregistered (i.e. anonymous) card may be issued to a person if they are at least 18 years of age and not subject to an exclusion order.

If carded play is mandated in casinos under a regulation, a person wishing to gamble in a casino would be required to obtain a player card by verifying their identity and age. The option to sign up for an unregistered card would not be available as unregistered cards cannot adequately isolate a specific player's expenditure to the extent necessary to track the person's transactions, and their expenditure towards the cash transaction limit as suggested by ***Recommendation 2*** of the Gotterson Review, and any relevant pre-commitment gambling limits recommended by ***Recommendations 3 and 4***. Additionally, the data collected through the person's carded play could, if prescribed by regulation, include their buy-in and buy-out (time and amount), play period, turnover, losses and wins, and gambling product played, and be made available for research purposes and to inform casino oversight.

The requirement for compulsory identity (and age) verification, and the collection and use of certain gambling data as part of mandatory carded play may be considered to intrude on a person's right to privacy. However, any potential breach is considered justifiable, as identity and age verification and the collection of certain gambling data can assist casino operators to fulfil their legislative obligations by mitigating risks associated with money laundering and terrorism financing and underage gambling, as well as facilitating mandatory pre-commitment.

Criminals have been known to take advantage of the cash intensive nature of casinos, combined with the anonymity and ease of access afforded, to launder illicit funds. Generally, this may entail inserting large amounts of cash into a gaming machine and engaging in minimal or no game play before cashing out; and offering to pay cash to a legitimate player in exchange for the player's winning tickets to claim as their own. As a 'reporting entity', casino operators are required under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF Act) and Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules) to:

- report suspicious matters (where there is suspicion that a customer or transaction is related to criminal activity), threshold transactions (i.e. transactions of $10,000 or more in cash) and international funds transfer instructions (of any value into or out of Australia) to the Australian Transaction Reports and Analysis Centre (AUSTRAC);
- provide its gambling services only in accordance with an AML/CTF program having certain characteristics;
- lodge transaction and compliance reports with AUSTRAC; and
- comply with record keeping requirements relating to the provision of gambling services.

Carded play data linked with verified players would more easily assist casinos to meet their AML/CTF obligations and combat money laundering activity as every time a gambling transaction takes place, it can be traced back to a specific individual.

Identity verification via a player card can also assist with the exclusion of people with gambling problems from casino gambling. For example, it may be made a requirement under a regulation that a player card must not be issued to a person who is excluded from gambling at the casino, and any card that has already been issued to an excluded person must be suspended or cancelled. Additionally, a regulation may specify that a player card may be voluntarily deactivated on request by a person who is experiencing gambling problems.

Another benefit of mandating identity-linked player cards for gambling is that it would make it more difficult for a minor to gamble in a casino, thereby minimising potential breaches of the Casino Control Act which provides that a casino operator or its employee or agent must not allow a person under 18 years old to gamble or attempt to gamble in the casino.

It should be noted that identity and age verification is not a new concept for the gambling industry and is already in place for online wagering across Australia, as it is recognised that gambling activities pose a high risk in terms of money laundering, fraud and criminal exploitation. It is also common for casino patrons to provide significant identity information to casino operators in order to participate in loyalty programs.

Further, the information collected by player cards has many potential uses that can improve casino safety and integrity. In terms of using data to inform further gambling harm research, the Bill provides the chief executive may give de-identified player card information to an entity for this purpose. However, the chief executive may still request, under new section 72J, non-anonymised data from the casino operator by written notice. Whilst this may impact an individual player's right to privacy it is considered reasonable, having regard to the objects of the Casino Control Act, for the chief executive to access this information for the administration or enforcement of the Act. For example, casino operators may have recorded, via a player card, information that is essential to an investigation or which will demonstrate that the casino operator knew, or ought to have known, that a particular person was present in the casino, or that risky gambling behaviour was occurring without the intervention of casino staff.

Cash limits on gambling

Clause 36 – Insertion of new section 66A

A) Restriction on the use of a legal payment method

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation must have sufficient regard to the rights and liberties of individuals. This requires not restricting normal activities without justification.

The Bill inserts a provision into Casino Control Act that would allow a regulation to prescribe a limit on the amount of cash transactions that a person may carry out in a prescribed casino within a 24 hour period. The head of power alone does not directly constrain the rights and liberties of individuals.

A regulation which prescribes a monetary limit on the amount of cash that may accepted for gambling purposes would, however, be restricting the use of a legal payment method for gambling, thus infringing on personal rights and liberties. It would also have the effect of limiting individual privacy because players would be required to use traceable payment methods, such as a debit card or bank transfer, to gamble if they wish to spend above the prescribed limit.

The potential FLP breaches are justified because they address the risk of money laundering in casinos and are being implemented, or planned to be implemented, in every Australian jurisdiction that has, to date, completed an inquiry into the integrity of a casino operator it licenses. The Gotterson Review, in suggesting a $1,000 limit on cash transactions under ***Recommendation 2***, noted that the Finkelstein Inquiry into Crown Melbourne had also recommended a $1,000 cash limit to address money laundering.[19] Both the New South Wales and Victorian parliaments have now passed legislation to limit cash transactions in casinos to $1,000 per person, per day.[20] As noted above, the money-laundering risk is inherent to casinos due to the high volume, historically cash intensive nature of casino businesses and the anonymity cash provides compared to other payment types.

While a regulation limiting the amount of cash that may be accepted for gambling purposes may impact individual liberties, the aim of addressing the risk of money laundering is considered to be aligned with the objective of the Casino Control Act to ensure that, on balance, the State and the community as a whole benefit from casino gambling. It is also important to note that such a regulation would only restrict a player's use of cash. Subject to any relevant mandatory pre-commitment limits they may be required to set, players will not be prevented from using other payment methods (besides cash that is above the threshold limit) to fund their gambling activities.

B) Delegation of certain matters to regulation

Section 4(2)(b) of the Legislative Standards Act also requires legislation to have sufficient regard for the institution of Parliament. This includes ensuring that, pursuant to section 4(4)(a) of the Act, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons. Imposing a limit on the amount of cash a casino can accept from a person by prescribing that limit in a regulation may breach this principle. Enforcing such a limit will require significant changes to how casino operations are conducted and as discussed above, raises privacy concerns, and impacts individual liberties. Arguably, it may be more appropriate for obligations in relation to the limit to be clearly stated in an Act of Parliament, rather than subordinate legislation.

However, it is not uncommon for monetary values to be prescribed in a regulation, particularly where the value is not proposed to be (in this case for simplicity) indexed. Prescribing the value of the cash limit in a regulation allows for the value to be appropriately reviewed.

Mandatory pre-commitment and play and break limits

[19] Ibid 1, para 446.
[20] Schedule 1 [62] Casino Legislation Amendment Act 2022 (NSW); section 64A Casino Control Act 1991 (Vic).

Clause 43 – Insertion of new Part 6, Division 3

A) Delegation of certain matters to regulation

Section 4(2)(b) of the Legislative Standards Act provides that legislation should have sufficient regard to the institution of Parliament. According to section 4(4)(a) of the Act, whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons.

The Bill amends the Casino Control Act to provide a regulation may provide that a person must not be allowed to play a stated game or carry out a stated activities in a stated casino other than under a pre-commitment system in accordance with the regulation.

The potential FLP arising from allowing a regulation to prescribe additional games and activities to which mandatory pre-commitment applies is considered to be justified by the fact that the intent is to maximise the harm minimisation benefits of pre-commitment which can only be realised in its broadest sense as a result of future technological development. For example, currently the technology for pre-commitment is less developed for table games compared to gaming machines.

In addition to types of games and activities, and particular persons that a regulation may specify a pre-commitment system must apply to, the Bill provides that a regulation may also prescribe:

- the types of pre-commitment limits and default pre-commitment limits that must be made available by a pre-commitment system;
- a pre-commitment limit that applies to a player under the pre-commitment system;
- the provision of information to the chief executive about the operation of the pre-commitment system;
- the obligations of a casino operator relating to a pre-commitment system to help ensure safer gambling; and
- the ways of accessing a pre-commitment system.

It is considered appropriate for these detailed operational matters to be prescribed in subordinate legislation. Going forward, the approach will also provide flexibility to amend the requirements for a pre-commitment system, for example, in response to changes to the gambling environment (such as technological developments) and to facilitate best practice gambling harm minimisation measures which may be identified through new research.

B) Impacts on the rights and liberties of individuals

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation must have sufficient regard to the rights and liberties of individuals. This includes not restricting normal activities without justification. While the regulation making power introduced by the Bill with respect to pre-commitment systems does not directly engage with the rights and liberties of individuals, a regulation made under the power requiring players to set expenditure limits (or accept the default limits) under a pre-commitment system would limit the right of players to spend their own money in the way they deem to be appropriate for themselves. The same issue also applies if the regulation places restrictions on when and how expenditure limits can

be amended once set. If a person wishes to increase an expenditure limit, they will not be able to do so for a prescribed period. Similarly, if the regulation prevents a person from engaging in gambling activities once a prescribed time limit has been reached, it constrains the way in which the person chooses to spend their time.

If made, such a regulation would restrict individual freedom by preventing a person who has reached their limit from playing gaming machines and other prescribed games or engaging in any prescribed activities. It could be argued that in signing up for pre-commitment, an individual is voluntarily entering into an agreement for limits to be placed on their gambling expenditure and time spent gambling. However, it is also true that an individual who wishes to gamble without such restrictions cannot freely participate in all games or activities a casino has on offer.

The potential breaches are considered justified because gambling can be a harmful activity and the intent of such a regulation would be to address the risk of gambling-related harm in accordance with the Casino Control Act's objectives, and potentially make a positive impact on the lives of many Queenslanders. This is because pre-commitment can assist a person to understand their gambling patterns and allow them to develop a considered and healthy approach to their gambling expenditure and time spent gambling.

Compulsory code of conduct

Clause 84 – Insertion of new section 126A

A) Delegation of certain matters to regulation

Pursuant to section 4(2)(b) of the Legislative Standards Act, legislation must have sufficient regard to the institution of Parliament. Section 4(4) provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons and whether the Bill authorises the amendment of an Act only by another Act.

Generally, the greater the level of potential interference with individual rights and liberties or the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament. Further, if a regulation making power is so general as to allow for a provision about any subject matter, including those that should be dealt with by the Act as opposed to subordinate legislation, then it may be considered to be a Henry VIII clause.

The Bill amends the Casino Control Act to introduce a power to prescribe a mandatory code of conduct for casino operators by regulation and a penalty for contravention of a prescribed code. The amendment may be viewed as a derogation of the institution of Parliament because the regulation making power allows for a code of conduct to be about safer gambling in casinos; the appropriate conduct of casino operations; and the implementation of appropriate practices, systems and procedures relating to governance, accountability and integrity of casino operators. These are matters which are, in part, already dealt with under the Casino Control Act, and should arguably remain within the Act's purview rather than be delegated to subordinate legislation, particularly as they can impact and interfere with rights and liberties.

However, prescribing a code of conduct by regulation rather than in primary legislation is considered appropriate in the circumstances. This is because a code of conduct should be responsive to changes in the industry, including new technologies and research into gambling harms. Keeping pace with industry and community expectations can be more readily achieved by regulation. For example, the Gotterson Review suggested that the code should explain the observable signs that may indicate a person is gambling in a way or to an extent likely to cause harm having regard to current research, and require casino operators to ensure patrons receive meaningful intervention based on these observable signs, and be regularly reviewed and updated.[21] A code prescribed in a regulation could be amended more easily to take into account any future research which may alter industry and community understanding of the 'observable signs' of problem gambling or the help interventions which are considered at the time to be best practice.

Given the breadth of integrity issues found by the Gotterson Review, a broad regulation making power is required to ensure that there is an ability for the Government to respond, effectively and efficiently, to matters as they arise. For example, the Gotterson Review found Star to have a poor corporate culture and attitude towards compliance.[22] The Gotterson Review also found some of Star's actions to be misleading and insufficiently transparent.[23] A code of conduct, covering standards of behaviour in key areas of casino regulation would assist to enhance integrity, minimise the potential for harm, and restore public confidence in casino operations. A code of conduct may also be used to deal with emerging integrity issues before they manifest as systemic non-compliance.

B) Empowering the making of a regulation that imposes a penalty of up to 200 penalty units

The Bill provides that a compulsory code of conduct prescribed under a regulation may provide for a maximum penalty of 200 penalty units for a contravention by a casino operator and for a maximum penalty of 20 penalty units for a contravention by other persons such a casino operator's employees and agents.

In accordance with section 4(4)(a) of the Legislative Standards Act, a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons. In relation to a power to create offences under subordinate legislation, the more serious the consequences, the more likely that an offence should only be imposed by an Act of Parliament. In the past, the Scrutiny Committee has accepted that legislative power to create offences and prescribe penalties may be delegated to the regulation provided the maximum penalties are limited, generally to 20 penalty units.

The Gotterson Review noted that "the regulatory framework in Queensland does not adequately address the risk of gambling related harm in that it does not make mandatory a responsible service of gambling code",[24] and advised that to secure compliance with a compulsory code of conduct, "the regulator should be empowered to issue fines for contraventions with such penalties to be sufficient to deter non-compliance".[25] In comparison to a lower penalty, a higher maximum penalty for a breach is more likely to

[21] Ibid 1, para 512.
[22] Ibid 1, paras 292, 593.
[23] Ibid 1, para 145.
[24] Ibid 1, para 510.
[25] Ibid 1, para 513.

encourage compliance and not be seen merely as an acceptable cost of doing business. This is an important consideration especially in light of the Gotterson Review's findings that Star demonstrated "a blinkered focus on profits and money, and often, an indifference bordering on callousness towards a patron's losses".[26]

Empowering the making of a regulation that imposes a penalty of up to 200 penalty units for casino operators is also justifiable on the basis that breaching a code which may impose obligations for the purpose of ensuring safer gambling in casinos, and accountability and integrity of casino operators could result in significant harm or consequences. The FLP issue is mitigated by the fact that a code could prescribe a lower penalty for contraventions of specific obligations which may not, due to their nature, warrant a maximum penalty of 200 penalty units for casino operators, thereby allowing offences to be distinguished according to their seriousness.

Supervision levy

Clause 15 – Replacement of Part 5, heading
Clause 16 – Omission of section 50
Clause 17 – Insertion of new Part 5, Division 1
Clause 20 – Amendment of section 54
Clause 21 – Amendment of section 55
Clause 85 – Insertion of new Part 11, Division 12 (to the extent that it inserts new sections 153, 154 and 155)

A) Delegation of certain matters to the Minister, chief executive and regulation

Pursuant to section 4(2)(b) of the Legislative Standards Act, legislation should have sufficient regard to the institution of Parliament. Section 4(4)(a) provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons.

The Bill amends the Casino Control Act to provide for an annual supervision levy to be determined by the Minister which will contribute towards the cost of casino regulation and oversight, and programs aimed at reducing harm from gambling in Queensland. Each casino licensee is liable for a proportion of the levy prescribed by regulation. Before recommending the making of a regulation prescribing the proportion payable by a casino licensee for a financial year, the Minister may have regard to the actual or estimated casino gross revenue for the casino for one or more previous financial years and the actual or estimated casino gross revenue for all casinos in the same period.

Under the Bill, each casino licensee is required to pay their portion of the supervision levy in four quarterly instalments in the way and by the day specified in the contribution notice provided by the chief executive.

The delegation to the Minster of the power to determine the amount of the supervision levy each year raises an FLP issue given the amount of the levy (or even the parameters by which the amount is determined) is not fixed under the Act or under a regulation which would be subject to Parliamentary scrutiny and disallowance. On the face of the Bill, the amount the

[26] Ibid 1, para 298.

Minister may set appears unlimited and could consequentially impose significant consequences on casino licensees.

A high level of regulatory oversight is required to ensure that the risks associated with casinos are properly identified and managed. The costs of implementing and maintaining a robust system of monitoring and supervision necessarily varies from year to year, influenced by, for example, operational need, changes or emerging issues within the industry, and the nature of the regulatory priorities for the relevant period. It is therefore essential for the supervision levy to be determined with some flexibility to account for both actual and anticipated regulatory costs. Although the Bill provides the Minister with a seemingly wide discretion to determine the levy amount, the levy may only be used for the specified purpose of funding the regulation and oversight of casinos in a way that promotes the object of the Casino Control Act and the conduct of programs aimed at reducing harm from gambling in Queensland. The quantum of levy is therefore implicitly capped by the purpose for which the levy may be used.

It is also considered appropriate to permit the chief executive to determine when and the manner in which the levy contributions are required to be paid. These are administrative matters which do not alter a casino licensee's actual levy contribution liability.

B) Ability to retrospectively fix the supervision levy amount applying to a financial year

The Bill amends the Casino Control Act to provide that before the start of each financial year, the Minister must fix the total amount of the supervision levy that is payable for the financial year for all casino licences, and the chief executive must notify the amount fixed by the Minister by publishing a notice on the department's website. However, the Bill also provides that the Minister may fix the total levy amount for a financial year, and the chief executive may notify the amount fixed, after 1 July in the financial year with retrospective operation to 1 July in the financial year.

Section 4(3)(g) of the Legislative Standards Act provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

Although the Bill enables the Minister to fix a supervision levy amount after 1 July in a financial year that has retrospective operation from 1 July, it should be noted that the supervision levy is payable by casino licensees who are corporations, not individuals. In any event, the retrospective provision is required because the Minister may not be in a position to know, before the start of a financial year, the amount needed to be raised from casino licensees to fund the regulation and oversight of casinos and the conduct of harm minimisation programs. The Minister may, for example, wish to have regard to the final figures for casino gross revenue of each casino in the previous financial year before fixing the total amount of the supervision levy. This information would not be available until after the start of the new financial year.

Cost recoverable periodic reviews into casino operations and suitability

Clause 56 – Insertion of new Part 9, Division 3B

A) Delegation of administrative power in relation to costs

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation should have sufficient regard to the rights and liberties of individuals. Section 4(3)(c) provides that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons. Generally, the amount of fees and charges payable by the public should at least be fixed by regulation.

The amendment of the Casino Control Act by the Bill to allow the chief executive to recoup the costs incurred for a full review or any other review conducted in respect of a casino licence from the casino licensee (and if applicable, their associated casino operator and casino lessee) may be considered inconsistent with section 4(3)(c) of the Legislative Standards Act because it enables the costs to be determined by the chief executive instead of being fixed by regulation. The amendment may also be regarded as inconsistent with section 4(4)(a) of the Legislative Standards Act as an unacceptable delegation of legislative power.

This approach adopted by the Bill is necessary because reviews can be complex and lengthy undertakings with variable costs depending on for example, their terms of reference, scope, whether an expert needs to be engaged to provide relevant advice and assistance, the number of hearings conducted and the amount of evidence/documents needed to be collated and reviewed. Often, the actual total cost of a review will not be known until the review has been completed.

Further, the amendment does not impact individuals as the obligation to pay for the costs of a review falls on corporations – all Queensland casino licensees, lessees and operators are incorporated entities. Although casino licensees, lessees and operators will bear responsibility for costs, it is to be noted that if the chief executive seeks an upfront payment to help cover the costs of a review, the chief executive must refund any overpayment of costs at the end of the review.

B) Impacts on privacy and legal professional privilege

The Bill amends the Casino Control Act to provide the chief executive with the ability to establish a review for each casino licence. A full review, which entails an inquiry into, among other things, the operation of the casino related to the casino licence and the suitability of the casino entity/entities associated with the casino licence, must be undertaken periodically at intervals not exceeding five years (unless otherwise postponed by regulation). Outside of the timeframe for full reviews, the chief executive may also cause a review to be undertaken about any matter relating to a casino licence. The reviewer has the powers, authorities, rights, privileges, protection and jurisdiction of the commission of inquiry under the COI Act.

Section 14(1)(b) of the COI Act currently provides that nothing in the Act shall make it compulsory for any witness before a commission to produce any book, document or writing if the witness has a reasonable excuse for refusing. The Bill limits the operation of section 14(1)(b) of the COI Act for the purposes of a review conducted under the Casino Control Act by removing the ability for a witness to rely on the ground of legal professional privilege as a 'reasonable excuse' to refuse to produce a document or other thing. The Bill also provides that a person attending before a reviewer is not entitled to remain silent; refuse or fail to

answer any question; or refuse or fail to produce any document, property or other thing on the ground of legal professional privilege.

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation should have sufficient regard to the rights and liberties of individuals. The right to privacy is a relevant consideration. The amendment may be seen to limit the right to privacy by allowing the reviewer access to information that they may not otherwise have been able to access due to legal professional privilege reasons.

Casino licences granted under the Casino Control Act remain in force until they are cancelled or surrendered so they are often in force for significant periods of time. For example, the licences for The Reef Hotel Casino, The Ville Resort Casino and The Star Gold Coast were granted in 1996, 1986 and 1985 respectively. The risk profile of a casino and its related entities may change throughout the duration of the casino licence as events and circumstances arise as evidenced by the findings from the Gotterson Review. It is therefore important that casinos and casino entities be the subject of regular reviews as a means of maintaining public confidence in casino operations and the entities associated with such operations.

Conducting regular reviews into the suitability of casino entities and the conduct of casino operations would:

- provide an opportunity to periodically ascertain whether casino entities continue to be of good repute (having regard to character, honesty and integrity) during the term of the relevant casino licence in order to ensure that casinos remain free from criminal influence and exploitation;
- encourage casino entities to be vigilant in maintaining their good repute;
- provide an opportunity to periodically ascertain whether casino operations are being conducted honestly and in a manner that is consistent with the object of the Casino Control Act as expressed under section 3 which is to ensure that, on balance, the State and the community as a whole benefit from casino gambling; and
- assist in identifying any emerging integrity or other issues in the industry before they manifest as systemic non-compliance.

In order to meet the terms of reference set for a review, the reviewer should be able to access and assess relevant information. The benefits of conducting regular reviews into the suitability of casino entities and the conduct of casino operations would be limited if witnesses called to such reviews were able to withhold certain information or documents on the basis that such information or documents was the subject of legal professional privilege. While legal professional privilege is an important safeguard in democratic societies, it should not be used as a shield to prevent proper scrutiny of matters relating to the conduct of casino operations or to the probity of those involved in casino operations.

It may be noted that a New South Wales review into The Star Pty Ltd, the licensee of The Star Sydney casino and a subsidiary of Star, found "there was an unsatisfactory understanding of the circumstances in which legal professional privilege should be claimed among Star Entertainment's most senior in-house lawyers over the relevant period. Inappropriate claims for privilege increase the likelihood that documents will not be produced to regulators and others, when they should instead be disclosed".[27] Displacing legal

[27] Ibid 5, pg 20.

professional privilege as an excuse for not providing information when required to do so will assist to prevent this from occurring.

The Bill makes clear that information does not cease to be the subject of legal professional privilege only because it is given to the reviewer.

The approach proposed by the Bill is similar to that taken in respect of information that must be provided to a special manager appointed to a casino entity, or Minister, chief executive or external adviser when requested (see sections 30C, 90E, and 91AA of the Casino Control Act). A casino entity is not excused from complying with the request on the ground that the information is the subject of legal professional privilege. Information does not cease to be the subject of legal professional privilege only because it is given to the special manager, Minister, chief executive or external adviser.

As the Bill enables the chief executive to publish the reports of reviews, further potential impacts on privacy may arise if review reports containing adverse findings about identifiable individuals, and/or private or commercially sensitive information are published. Periodic full reviews are intended to provide scrutiny into casino operations and an opportunity to re-evaluate the suitability of casino entities to be associated or connected with the management and operations of a hotel-casino complex or casino. Any findings and recommendations about individuals, casino entities and other matters of public concern relating to casinos should therefore be able to be made public.

The Bill strikes a proper balance between the need for transparency and the need to protect privacy by providing the chief executive with the ability to publish a report in part or in redacted form if the chief executive considers appropriate. Furthermore, the Bill requires the chief executive to withhold from publishing in the report anything the chief executive is satisfied is commercial in confidence; information about an individual's personal affairs; or information that would be against the public interest to publish.

Any potential privacy impacts may be further limited by the exercise of powers provided for under section 16 of the COI Act that are available to a reviewer. Section 16 provides that a commission may order that any evidence given before it, or the contents of any book, document, writing or record produced at the inquiry, shall not be published. A reviewer could therefore, direct the chief executive not to publish all or parts of a report if the reviewer considers it appropriate.

D) Delegation of certain matters to regulation

The Bill provides that in the conduct of a review, a reviewer has the ordinary powers of a commission of inquiry under the COI Act. If the reviewer is a Supreme Court judge or an Australian lawyer of at least seven years standing, the reviewer also has as well as the special powers of a special commission powers, normally only given under the COI Act to a commission whose chairperson is Supreme Court judge, if provided for by the reviewer's appointment. The Bill further provides that for the purpose of the conferral and exercise of the commission powers, the COI Act applies with all necessary changes and any changes prescribed by regulation.

Section 4(2)(b) of the Legislative Standards Act also requires legislation to have sufficient regard for the institution of Parliament. This includes ensuring that, pursuant to section

4(4)(a) of the Act, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons. It may be considered that the Bill breaches this principle by allowing a regulation to prescribe changes to the way that the COI Act applies to the Casino Control Act through a Henry VIII clause.

It is necessary to provide such a regulation making power to deal with unforeseen issues which may arise in the application of the COI Act, particularly when certainty is required for the conduct of reviews. If there was no ability to amend the COI Act as necessary, then there is a real risk that a reviewer may not have the appropriate powers needed to effectively and efficiently conduct a review of a casino licence.

Interstate police commissioner exclusions

Clause 61 – Insertion of new section 91Q
Clause 64 – Replacement of sections 94 and 96 (to the extent it inserts new section 95)
Clause 66 – Insertion of new section 99B
Clause 68 – Replacement of section 100
Clause 70 – Amendment of section 100B
Clause 71 – Amendment of section 100C

A) Limiting freedom of movement and association via an exclusion notice issued on the basis of an interstate exclusion

Requiring legislation to have sufficient regard to the rights and liberties of individuals pursuant to section 4(2)(a) Legislative Standards Act includes not abrogating common law rights without sufficient justification.

The Bill amends the Casino Control Act to provide that if a person is banned from an interstate casino due to an interstate police commissioner initiated exclusion, the casino operator must issue that person with an exclusion notice prohibiting that person from entering or remaining in the operator's Queensland casino as soon as practicable if the casino operator can establish the person's address, or otherwise at a time when the casino operator becomes aware the person has entered, or is trying to enter, the casino. The effect of the exclusion notice is that the person is prevented from entering or remaining in the casino which affects the person's common law rights to freedom of movement and association.

The right to freedom of association may be engaged having regard to the criteria upon which an interstate police commissioner may direct a person to be excluded from an interstate casino. For example, the Queensland Police Service operating manual indicates that suspicion or intelligence a person has associations with organised crime groups and/or outlaw motorcycle gangs or is suspected of illegal consorting at the casino complex may justify a police-initiated exclusion from a casino. Other jurisdictions are likely to base exclusions on similar factors.

The infringement on the rights to freedom of movement and association are considered reasonable and justified due to the risk persons who are the subject of an interstate police commissioner initiated exclusion pose to Queensland casinos in regard to criminal infiltration and influence. The amendment to the Casino Control Act by the Bill is also considered necessary to address findings that Star failed to exclude persons from its Queensland casinos (The Star Gold Coast and Treasury Brisbane) that were known to be subject to exclusions

from the New South Wales Police Commissioner. The Gotterson Review further found that even after Star adopted a policy in 2019 whereby a person excluded from The Star Sydney would be excluded from its Queensland casinos, it chose not to apply the policy retrospectively, and actively continued to incentivise two excluded persons to travel interstate to gamble at its Queensland casinos.[28] The Gotterson Review noted that this showed "a lively disregard for the law and for the underlying rationale for such exclusions, namely, to protect the casino from criminal infiltration and influence".[29]

It may also be noted that casinos are private property, not public spaces. A casino operator is not required to allow entry to everyone. This is reinforced under section 92(1) of the Casino Control Act which states no person has a right against a casino operator to enter or remain in a casino, except by the licence of the casino operator. It should also be noted that while an exclusion notice issued on the basis of an interstate exclusion excludes a person from a casino (which is private property), the person would otherwise be able to move freely within Queensland and associate with whomever they chose.

B) Impacts on privacy

As noted above, the right to privacy is a relevant consideration in whether legislation has sufficient regard to the rights and liberties of individuals.

The amendments to the Casino Control Act proposed by the Bill relating to exclusion notices issued on the basis of interstate exclusions may impact on an individual's right to privacy.

Under the Bill, casino operators will require a person's personal information (such as name and address) for the purpose of issuing an exclusion notice to the person. Casino operators will also be required to provide this information to the Queensland Police Commissioner to demonstrate an exclusion notice has been implemented in respect of a person who is the subject of an interstate exclusion, and again if the casino operator intends to end the exclusion notice.

If the Queensland Police Commissioner considers, after receiving notification from a casino operator of the casino operator's intention to end an exclusion notice that was issued to a person on the basis of an interstate exclusion, that the exclusion should still be in place for that person, the Queensland Police Commissioner may direct, pursuant to new section 94 of the Casino Control Act, the casino operator to exclude the person. Currently, under the Act, the Queensland Police Commissioner may notify an interstate authority responsible for administering gaming legislation of the direction. The Bill allows the Queensland Police Commissioner to also notify other interstate police commissioners and the chief executive. Notification of the direction may entail passing on personal details of the person who is the subject of the direction.

Under the Bill, Queensland casino operators must also notify each other about a person immediately after they become aware that the person is the subject of an interstate exclusion or if they cannot establish the person's identity at that time, immediately after establishing the person's identity.

[28] Ibid 1, paras 200, 231.
[29] Ibid 1, para 231.

It is necessary for the Government to implement changes that require casinos to give effect to interstate police exclusions as a response to the serious failings of Star to effectively manage such exclusions. The risk of doing nothing, or maintaining the status quo, leaves open the possibility that persons banned from interstate casinos at the direction of the relevant interstate police commissioner could travel to and gamble at Queensland casinos (or be enticed to do so), bringing with them an increased risk of criminal behaviour and influence.

The impact on privacy is mitigated as the amendments involve only the minimum use of personal information necessary for a casino operator to implement an exclusion. A person's excluded status is not published publicly and is only made known to persons that need to know about the exclusion, such as casino employees. This ensures that only personal information that is relevant to broader aims such as preventing criminal influence in casinos and safety is shared, and the privacy and reputation of persons experiencing gambling harm is appropriately respected.

C) Fairness and reasonableness of legislation

Appropriate regard for the rights and liberties of individuals generally requires legislation to be reasonable and fair.

It is possible that an interstate police commissioner may have initiated or directed a person's exclusion from a casino on the basis that the person has been convicted of a crime. It may be argued that it is generally unfair to exclude a person from enjoying legal activities such as gambling because of a prior conviction, particularly if the person has already been punished for their crime/s. It is also possible an interstate exclusion may be instituted without the person having been convicted of a crime on the basis of an interstate police commissioner's view, for example, that the person's presence in a casino would create the risk of a crime occurring.

However, the intent of excluding a person from a Queensland casino who is the subject of an interstate exclusion is not to punish the person. The purpose of excluding such a person is to obligate Queensland casino operators to proactively respond to information regarding exclusions directed or implemented by police commissioners from other jurisdictions. More broadly, the intent is to reduce the risk of criminal influence in Queensland casinos by persons who pose a high risk because an interstate police commissioner has already deemed it necessary to exclude the person from one or more casinos. Casinos are highly regulated spaces already due to inherent risks and it is considered that excluding persons to prevent potential criminal influence and support safety may be reasonable and proportionate in certain cases.

New officer duty

Clause 59 – Insertion of new Part 10, Division 1AA

A) Imposition of presumed responsibility

The Gotterson Review (and various other interstate inquiries) found that the illegal and unethical behaviour widespread in the casino industry was often the result of leadership that was (at best) ambivalent towards regulatory compliance. To address these failings, the Bill

amends the Casino Control Act to impose a requirement on officers of a casino operator (and its holding company where there is one) to take reasonable steps to, among other things:

- ensure there are appropriate controls and procedures in place to ensure particular matters such as the lawful operation of the casino;
- create and maintain a corporate culture that does not direct, encourage, tolerate or lead to any non-compliance with laws applying to the operation of the casino;
- acquire and keep up to date knowledge of matters relevant to the lawful operation of a casino; and
- gain an understanding of casino operations and the risks associated with those operations.

A penalty applies if officers fail to discharge their duty.

Section 4(2)(a) of the Legislative Standards Act requires legislation to have sufficient regard to the rights and liberties of individuals, which includes not making a person responsible for actions or omissions over which the person may have no control. A broad requirement for particular officers to ensure certain matters may breach this principle if the requirement has no regard for the officer's position and influence on the subject matter or the particular aspect of the business. For example, it may be reasonable to expect the Chief Risk Officer to have more oversight and in-depth knowledge relevant to the implementation of anti-money laundering procedures on the casino floor than the Chief People and Performance Officer.

To ensure there is appropriate regard for individual rights and liberties, the Bill provides that a failure to discharge the duty adequately is to be determined with regard to the person's office and influence, for example by consideration of what a reasonable person in a like position would have done in the officer's circumstances. With this caveat, the new duty is considered justified on the basis it will engage corporate leadership to lead cultural change in Queensland casinos.

B) Intrusion on ordinary business activities

An undue or inadequately justified restriction on ordinary activities infringes the rights and liberties of individuals inconsistent with section 4(2)(a) of the Legislative Standards Act. This includes regulation that interferes on the right to conduct business in the way in which the persons involved consider appropriate. The new duty imposed by the Bill on particular officers may place restrictions on those officers by prescribing certain matters they must take reasonable steps to ensure. However, it is considered the things that an officer must ensure are not outside the scope of the kinds of measures that should already be in place to ensure the casino operates in compliance with the law. For example, it is not unreasonable to expect that a casino has in place appropriate controls and procedures to ensure regular reviews of the lawfulness of the casino operator's operation of the casino are undertaken, or that casino staff are given adequate training, instruction and supervision they need to comply with the Casino Control Act and any other relevant laws in relation to the operation of the casino.

In addition, the duty requires that *appropriate* controls and procedures are in place and that *reasonable* steps are taken by officers in compliance with the duty. This approach ensures that officers still have discretion to determine how to discharge the duty with regard to the commercial needs of the business and the regulatory framework it operates within. It may also be noted that due to the probity and gambling harm risks, casinos are already more

highly regulated than other commercial enterprises. The new duty is intended to bring this fact to the forefront.

C) Adequacy of defining circumstances where liability is imposed

Section 4(3)(k) of the Legislative Standards Act provides that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation is unambiguous and sufficiently specific to enable all persons to understand what is required of them.

There may be a view that some of the prescribed matters relating to the new duty are too broadly expressed. For example, under the Bill, an officer is required to make sure there are appropriate controls and procedures in place to ensure the casino operator operates the casino lawfully and that the lawfulness of the casino operator's operations is regularly reviewed. The duty extends not only to ensuring the casino operator is lawfully operating under the Casino Control Act, but also in relation to any other laws which may apply to the casino operator – including, for instance, laws relating health and safety, taxation, and fair work. A casino operator's compliance with laws in general is considered relevant to the casino operator's suitability to be associated or connected with the management and operations of a casino. This is because a failure to comply with laws exposes a casino operator to vulnerability and risks which can result in financial penalties, lawsuits, reputational impacts, suspension or termination of the business.

Additionally, the new duty requires officers to take reasonable steps to ensure certain matters, including creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the casino operator's legislative duties and obligations. It could be argued that the requirement to take reasonable steps in general, or to create and maintain a particular culture, is vague.

However, by not defining what constitutes reasonable steps, the Bill ensures that a particular officer's position in the corporation can be considered and officers retain some discretion as to how they carry out their duties. It is also expected that the obligation to create and maintain a corporate culture that prioritises compliance is understood within the industry. For instance, both the Gotterson Review,[30] and the Bell Review into The Star Sydney, made findings related to corporate culture. The Bell Review found there were serious failures in reporting, misconduct in relation to junkets, siloing of information within the investigations team, and a general reluctance to escalate bad news that were a manifestation of a culture that prioritised business goals over compliance.[31]

D) Imposition of unnecessary regulation

Legislation is required to have sufficient regard to the rights and liberties of individuals under section 4(2)(a) of the Legislative Standards Act. The new duty may impact on the rights and liberties of individuals by imposing unnecessary regulation on particular officers. This is due to a potential overlap between the new duty under the Casino Control Act and the general duty of directors and other officers to exercise due care and diligence under section 180 of the Commonwealth Corporations Act and its related offence provision under section 184.

[30] Ibid 1, para 292.
[31] Ibid 5, Chapter 1, paras 147, 148.

However, it is considered that some overlap with the Corporations Act is justified on the following bases:

- the duty under the Casino Control Act will provide specificity around what is expected of officers in a casino specific context compared to the general duty under the Corporations Act;
- the duty under the Casino Control Act will allow the Queensland Government to proactively engage the industry to ensure the duty is being met, rather than rely on the Commonwealth corporate regulator to react when there are high profile failures of directors and others to carry out their duties;
- the offence under the Corporations Act only applies where the officer of a corporation is reckless and dishonest and has failed to either exercise their powers and discharge their duties in good faith in the best interests of the corporation, or for a proper purpose. The intent of the duty under the Casino Control Act is to promote a culture of compliance by requiring officers to take reasonable steps to ensure casino operators meet their regulatory obligations, rather than focusing only on behaviour that is reckless or dishonest; and
- the Corporations Act itself provides in section 185 that sections 180 and 184 of the Act have effect in addition to (not in derogation of) any rule of law relating the duty or liability of a person because of their office or employment in relation to a corporation, and do not prevent the commencement of civil proceedings for a breach of a duty under that other law.

E) High penalty

The Bill attaches a maximum of 1,000 penalty units to a breach of the new duty by an officer. Section 4(2)(a) of the Legislative Standards Act provides that legislation should have sufficient regard to the rights and liberties of individuals. A pertinent consideration is whether consequences imposed by legislation are proportionate and relevant to the actions to which the consequences are applied. In this regard, it may be considered that an upper limit of 1,000 penalty units may be considered disproportionate.

However, casinos are highly regulated businesses. Regulation is necessary to ensure they are conducted with integrity and fairness, remain free from criminal influence and exploitation, and that the potential for harm from gambling is minimised. Executive officers of casino operators are accountable for, or have a significant influence in, the overall management and operation of the casino, including identifying, managing and mitigating operational and corporate risks that are likely to have a material impact on the casino and its integrity; managing corporate performance and financial condition; implementing policies, procedures and codes of conduct that help shape the values, strategy, direction and efficient functioning of the casino; and otherwise generally ensuring that operations are undertaken within the confines of the law. There is therefore a need, in the public interest, to ensure that executive officers of casino operators, given the significance of their role, can be penalised appropriately for failing to exercise due diligence.

It should also be noted that the penalty under the Bill is a prescribed maximum. The court will have the discretion to fix a lower penalty if it is considered appropriate and will necessarily have regard to the nature of the officer's office and the extent to which the officer is in a position to influence the operation of the casino.

Regardless, even at the maximum penalty, an officer will only be liable for $154,800 (based on the current penalty unit value of $154.80) under the Bill. The maximum pecuniary penalty applicable to directors who contravene the duty of care and diligence under section 180 of the Commonwealth Corporations Act is comparatively higher and is the greater of 5,000 penalty units (which is equivalent to $1,565,000 based on the current penalty unit value of $313) or, if the court can determine the benefit derived and detriment avoided because of the contravention, that amount multiplied by three.[32] The level of care and diligence expected of officers under the Bill is not over and above what would be expected of directors under the Corporations Act.

Real time access to casino electronic systems

Clause 56 – Insertion of new Part 9, Division 3A

A) Intrusion on ordinary business activities

Under section 4(2)(a) of the Legislative Standards Act, legislation must have sufficient regard to the rights and liberties of individuals. The Bill amends the Casino Control Act to enhance the chief executive's ability to access casino electronic systems, by providing for independent and as close to real time as practicable access to systems that monitor, among other things, the financial operations of the casino, the operation of gaming machines and other gaming equipment, and the conduct of gambling. Under the amendments, the chief executive may direct the casino operator to do, or stop doing, a thing to enable the chief executive to access the casino operator's systems.

The amendments may be seen to adversely affect a casino operator's ability to conduct business without interference. However, it is nevertheless considered a justified intrusion as casinos are highly regulated due to the risks they pose to the community, including risks of gambling related harm and criminal infiltration. Given that conducting casino operations is a licensed privilege rather than a right, providing the chief executive with access to data which is a crucial tool for monitoring a casino operator's compliance with the legislation is considered appropriate.

The amendments are consistent with existing powers under the Casino Control Act that enable the Minister to give a direction to a casino entity in relation to the management, supervision or control of any aspect of the operation of the casino.

B) Impacts on privacy

Granting the chief executive unfettered access to casino systems that monitor a broad range of activities related to casino operations may potentially impact on an individual's privacy. For example, under the new power, the chief executive would be able to access the system that stores data collected by identity-linked mandatory player cards, or which monitors the conduct of junkets comprised of overseas individuals. Similar to the other amendments made by the Bill to the Casino Control Act that impact privacy, the intrusion is considered to be justified on the basis that it will improve regulatory oversight in high risk casino environments. The power will ensure that the chief executive can effectively audit the casino

[32] Section 1317G(3).

systems in use by the operator to ensure that they are compliant with requirements as laid out in the equipment approval, the approved control system, or under the Casino Control Act.

It is also considered that in many cases, the power will merely enhance the chief executive's ability to access information that is already available to the chief executive. For example, under existing provisions of the Casino Control Regulation, operators are required to provide copies of junket agreements that include the name of each participant, the period of their visit, the amount agreed to be committed by participants under the agreement, and other personal information to the casino regulator. Operators are also required to provide copies of junket participants' passports. While accessing the system that monitors the conduct of a junket will potentially expose personal information about participants to the chief executive, it is not likely to be new information and is incidental to the objective of ensuring that the junket is conducted in accordance with the approved agreement.

C) Using information as evidence in proceedings

It is important for the effective administration of the Casino Control Act that information accessed via a casino operator's electronic system can be used as evidence in relevant proceedings against the casino operator. This may be inconsistent with section 4(3)(b) of the Legislative Standards Act which requires legislation to be consistent with the principles of natural justice. Natural justice is likely to include the right of a person to be made aware of evidence adverse to the person and to make submissions in relation to it. The Bill does not, in any way, prevent a casino operator from disputing evidence gathered by direct access to an electronic system by making submissions in a proceeding for an offence against the Act or another law. However, it may preclude a casino operator from making submissions about the potential evidence *at the point* it is gathered by the casino regulator.

However, using information accessed in an electronic system as evidence is considered reasonable on the basis that such systems are fundamental to the operator's compliance with its regulatory obligations and the information contained in them should be accurate. For example, under section 107 of the Casino Control Act, it is an offence to evade the payment of casino tax or furnish a tax return that is false in a material particular or make any false statement to the chief executive in respect of tax payable under the Act. The accuracy and integrity of the system that monitors casino revenue and calculates tax is therefore vital to ensure compliance with section 107. The information contained in the electronic system would therefore be highly relevant and probative in a proceeding against a casino operator for underpayment of casino tax, for example.

Due to the considerable time and expense involved in court proceedings, it is unlikely that the casino regulator would pursue proceedings against a casino operator without first engaging with the casino operator about the information it had access to that indicates an offence may have been committed. If necessary, the regulator may also issue a casino operator with a formal notice to produce information or records for evidentiary purposes, informed by its assessment of data directly accessed from an electronic system, to ensure appropriate processes are followed.

D) Privilege against self-incrimination

Pursuant to section 4(3)(f) of the Legislative Standards Act, legislation should provide appropriate protection against self-incrimination. As noted above, the Bill clarifies that the

information accessed from a casino operator's systems may be used as evidence in a relevant proceeding against the casino operator. As access to the casino operator's systems will be independent and in real-time, the Bill may limit a person's right to refuse to provide information that might tend to incriminate them.

It should be noted that most, if not all, of the proceedings commenced by the regulator will be for breaches of casino legislation that have been committed by casino operators. Casino operators are all corporations which are not afforded the privilege against self-incrimination at common law: *Environment Protection Authority v Caltex Refining Co Pty Ltd* (1993) 178 CLR 477, 500. This is also reflected in section 88A of the Casino Control Act which provides statutory protection against self-incrimination for individuals only.

Imposition of higher penalties

Various clauses

A) Delegation of legislative power to prescribe penalties

Section 4(4)(a) of the Legislative Standards Act provides that legislation should have sufficient regard to the institution of Parliament including by allowing the delegation of legislative power only in appropriate cases and to appropriate persons. In relation to a power to create offences and impose penalties under subordinate legislation, the more serious an offence or penalty is, the more likely that the offence or penalty should be imposed only by an Act of Parliament.

(i) Penalties under the Casino Control Regulation

The Bill increases the maximum penalty for various offence provisions contained the Casino Control Regulation 1999 from 10 penalty units to 20 penalty units. The increases to the offences are considered appropriate as the former Scrutiny of Legislation Committee (AD 1996/4) has previously considered that the maximum penalty for offences under regulations should generally be limited to 20 penalty units.

(ii) Penalties under the Casino Control Act

The Bill increases the maximum penalty for certain offence provisions under the Casino Control Act to ensure they are proportionate to the risks and harm associated with casino operations and to meet community expectations that penalties should act as a suitable deterrent against inappropriate conduct. To avoid FLP issues, penalties should be proportionate to their offences. This often means that higher penalties are generally attached to offences of greater seriousness than for lesser offences.

The penalty increases under the Bill are considered appropriate and proportionate as regard was given to the seriousness of each offence, the penalty for equivalent offences in New South Wales and Victoria, and comparable penalties under other Queensland gambling Acts.

For example, because the ability to properly supervise gaming is essential to the proper conduct of gaming, the Bill increases the maximum penalty under section 59(1) of the Casino Control Act from 40 to 200 penalty units for an offence relating to a failure by the casino operator to ensure each gaming area in the casino can be observed clearly and without

obstruction. For the same reason, the Bill also increases the maximum penalty under section 59(2) of the Act from 40 to 200 penalty units for an offence relating to a failure by the casino operator to provide, prior to the commencement of casino operations, a floor plan showing areas to be used for gaming and casino operations, and a diagram of closed-circuit television systems for the areas.

A casino operator must not, in breach of section 62A(1) of the Casino Control Act, operate gaming equipment outside a casino without approval. Even where a casino operator has approval to operate gaming equipment outside a casino for particular limited purposes, the casino operator must not use, or allow the use of, cash, chips, or player account credits in the operation of the gaming equipment in contravention of section 62A(4) of the Act. As the offences are extremely serious and relate to unauthorised gaming, the Bill increases the maximum penalty under both provisions from 200 to 1,000 penalty units.

The maximum penalty for a casino entity that enters into an unauthorised agreement, such as a junket agreement, which provides a direct or indirect interest in or a percentage or share of moneys gambled at the casino or revenues, profits or earnings of the casino is increased tenfold (from 40 to 400 penalty units) under section 84(2) of the Casino Control Act by the Bill. Junket agreements require the prior approval of the Minister before they are entered into due to risks junkets present to the integrity of a casino by virtue of the large amounts of money involved, the potential illicit sources of those funds, the debt enforcing functions of junket operators, and the threat of criminal infiltration. These risks would be exacerbated without proper regulation. It is therefore appropriate that a larger maximum penalty be imposed for a failure to obtain prior approval before entering to such arrangements.

The Bill also increases the maximum penalty for:

- offences relating to the employment of unlicensed persons in the role of a casino employee or key casino employee from 200 to 400 penalty units under sections 34(2) and 34(3) of the Casino Control Act as the engagement of licensed employees is integral to probity;
- offences relating to the failure to keep approved bank accounts, accurate and auditable accounting records, and prepare annual financial statements under sections 77(1), 77(2), 78, and 79 of the Casino Control Act as these requirements are important for the proper financial management of a casino and to ensure that funds are not hidden from regulator scrutiny; and
- offences relating to forgery under section 110 of the Casino Control Act to ensure parity with equivalent Gaming Machine Act offences.

Modernising how inspectors obtain information

Clause 49 – Amendment of section 85H
Clause 52 – Amendment of section 88

A) Impacts on the rights and liberties of individuals as it relates to when an inspector should be required to show their identity card

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation should have sufficient regard to the rights and liberties of individuals. The amendment to the Casino Control Act by the Bill to remove the requirement for inspectors to show their identity card before or when

exercising a power in relation to a person under the Act in circumstances where the power is not exercised in the person's presence may be considered to infringe this FLP.

As the exercise of inspector powers are likely to interfere with the rights and liberties of individuals, it is best practice for an inspector to, when exercising a power, produce their inspector identity card to the person against whom the power is being exercised. However, casino inspectors regularly exercise their powers in writing (not just in person), such as when requesting the provision of information. It is impractical and inefficient to require inspectors to furnish a copy of their ID card in writing. Such a process is not conducive to a modern regulatory approach which utilises electronic and postal forms of communication. It also fails to take into consideration the fact that casino inspectorates are located on casino premises and inspectors interact with casino employees on a daily basis in order to carry out their duties. Casino employees are therefore likely to know who the casino inspectors are and would be familiar with their powers.

Although the amendment will obviate the need for an inspector to produce their identity card when exercising a power in writing, it will not prevent the person on whom the power is being exercised from freely and independently requesting the inspector to provide proof of identity before complying with the inspector's written instructions. Where an inspector exercises their power in the presence of a person, the inspector will still be required to show their identity card.

B) Impacts on the rights and liberties of individuals as it relates to the power to request information and the production of things, and attend before an inspector

Currently, under the Casino Control Act, it appears that an inspector may only request a relevant person to attend before the inspector to do any of the following:

- produce gaming equipment, chips or records related to the operation of a casino or administration of the Casino Control Act;
- answer questions or supply information with respect to the gaming equipment, chips or records;
- answer questions or supply information with respect to the operation of a casino.

To provide inspectors with the greatest flexibility, the Bill amends the Casino Control Act to broaden the powers to enable an inspector to require a relevant person to undertake the request by a stated time in a stated way (such as in writing or to attend in person before the inspector).

Powers should be justifiable in proportion to the interference of rights and liberties involved. They should also be limited in ways that are appropriate to the objectives of the legislation and the persons against whom, and the circumstances in which, the powers may be exercised. In this instance, the potential impact on individuals from the proposal may be considered to be beneficial and justifiable. At times, it is easier for an inspector to receive, and for a person to provide, answers to questions and information in writing, instead of in person, where the subject matter is complex, voluminous, historical or contains a lot of data. This particularly applies to requests from inspectors for copies of emails, file notes, gambling transactions; and casino policies and procedures. Regardless of the method by which an inspector requires a person to answer questions, or supply information or records, it will still be incumbent on the

inspector to clearly articulate the information which the inspector is seeking and provide the person with a reasonable timeframe within which to meet the inspector's request.

Permit the sharing of exclusions information among casino operators

Clause 73 – Insertion of new section 100DA

A) Impacts on privacy

Pursuant to section 4(2)(a) of the Legislative Standards Act, legislation should have sufficient regard to the rights and liberties of individuals. The right to privacy is a relevant consideration.

To further enhance the exclusions framework under the Casino Control Act, the Bill amends the Act to require a casino operator to notify other Queensland casino operators about the persons they exclude, either through the exercise of a common law right to exclude or an exclusion notice issued under section 92 of the Casino Control Act, from the casino. The notification to other operators must contain the details held by the casino operator as required to identify the person, state why the operator has excluded the person, and include a photograph of the person if one is available. This is personal information about an excluded person that may be shared without the consent of the excluded person and which may lead to them being banned from *another* casino.

The intent is not to compel casino operators to exclude persons they receive a notice about, but to require operators to exercise due diligence when determining if the person should also be excluded from their casino. It should be noted that the criteria for a casino-initiated exclusion under section 92 of the Casino Control Act include that the person has engaged in dishonest acts in relation to gaming, that the person has acted in a way that potentially affects the integrity of gaming or the safety and wellbeing of other patrons, or that the safety of a dependent of a person is at risk because of the person's presence in the casino. Many of these factors are directly related to casino integrity and community safety. It is therefore considered appropriate to facilitate information sharing in relation to casino-initiated exclusions to enhance the overall integrity of Queensland casinos.

Consultation

A discussion paper on the proposed approaches to facilitate the implementation of ***Recommendations 1 to 11*** of the Gotterson Review, and the other casino reforms was provided to the following targeted stakeholders on 17 August 2023 via letter:

- Queensland casinos – Reef Corporate Services Limited (The Reef Hotel Casino); Breakwater Island Limited (The Ville Resort-Casino); Destination Brisbane Consortium Integrated Report Operations Pty Ltd (The Star Brisbane); and Star (Treasury Brisbane and The Star Gold Coast);

- Special manager for Treasury Brisbane and The Star Gold Coast – Mr Nicholas Weeks;

- Interstate casino regulators – Racing, Gaming and Liquor Directorate, Western Australian Department of Local Government, Sport and Cultural Industries; Consumer and Business Services Liquor and Gambling, South Australian Department of Justice and Attorney-General; New South Wales Independent Casino Commission; Liquor and Gaming New South Wales; Victorian Gambling and Casino Control Commission; Revenue Gaming and Licensing, Tasmanian Department of Treasury and Finance; Liquor, Racing and Gaming, Northern Territory Department of Industry Tourism and Trade; and Australian Capital Territory Gambling and Racing Commission;

- Community stakeholders – Alliance for Gambling Reform; Australian Institute of Family Studies; Centacare; Integrated Families and Youth Service; Lifeline Darling Downs (Gambling Help Network); Lives Lived Well; Relationships Australia Queensland; Centacare (North Queensland) Gambling Help Service; Financial Counsellors Association of Queensland; Ethnic Communities Council of Queensland; Uniting Care Queensland (Gambling Help Service); and United Workers Union;

- Academics – Professor Dr Sally Gainsbury, Director, Gambling Treatment and Research Clinic, Brain and Mind Centre, The University of Sydney; Professor Matthew Rockloff, Head of Experimental Gambling Research Laboratory, School of Health, Medical and Applied Sciences, Central Queensland University; Dr Angela Rintoul, Senior Research Fellow, Federation University; and Professor Paul Delfabbro, School of Psychology, The University of Adelaide.

Additionally, consultation was undertaken by letter dated 22 August 2023 with Clubs Queensland, Queensland Hotels Association and RSL & Services Clubs Association about the amendments to update certain gambling terminology. The same consultation on gambling terminology was also undertaken with The Lottery Corporation and Tabcorp Holdings Ltd by letter on 4 September 2023.

Further detailed consultation was undertaken on 28 September 2023 with Queensland casinos and the Special Manager for Treasury Brisbane and The Star Gold Coast on the proposed legislative approach for initiating exclusion notices on the basis of interstate police commissioner initiated exclusions.

Gotterson Review recommendations

Stakeholders were generally supportive of the proposals to implement ***Recommendations 1 to 6*** of the Gotterson Review, although Queensland's two regional casinos raised concerns that implementation of the reforms will be costly. However, as the objective of the reforms is to restore public confidence, enhance integrity, prevent criminal influence and minimise the potential for gambling harm, the anticipated benefits of the implementation will likely outweigh the costs.

Some stakeholders raised privacy concerns in relation to the collection, storage and use of patron's personal information. Lives Lived Well for example, flagged some gamblers may be concerned with how information related to their gambling and identity may be stored and used which could, in turn, lead them to participate in unregulated or illegal offshore gambling products. The Ethnic Communities Council of Queensland raised the issue that people from countries where authorities misuse information may be deterred by the collection of carded

play data and suggested that data should not be shared with commonwealth agencies. Casino operators are relevant entities under the *Privacy Act 1988* (Cth) and the Australian Privacy Principles will apply to the collection, storage, use and disclosure of player's information. The Information Privacy Principles under the *Information Privacy Act 2009* (Qld) will apply to the information obtained by the Queensland Government. Section 14 of the Casino Control Act also contains protections against the disclosure of confidential information.

Community stakeholders submitted that ***Recommendations 1 to 4*** should be extended to licensed clubs and hotels (which was also a view shared by The Reef Hotel Casino) and be applied to wagering and keno activities in casinos to better minimise gambling harm. The Alliance for Gambling Reform also suggested that a mandatory code of conduct for safer gambling (***Recommendation 8***) should apply to all Queensland gambling operators. The Bill is focussed on the implementation of the Gotterson Review recommendations as they apply to Queensland casinos as a priority. Any potential extension of these reforms to the broader gambling industry would require significant consultation and regulatory impact analysis.

Although there was general support for changing certain gambling terminology under Queensland's gambling legislation (***Recommendation 7***), the RSL & Services Club Association objected to the amendments on the basis that gamblers should be personally responsible for their gambling and the difficulty that gambling operators would face in determining when a person is experiencing, or at risk of experiencing, gambling harm. Under the Bill, the definition of when a person is experiencing, or at risk of experiencing, gambling harm reflects the current definition of 'problem gambler' to minimise operational impacts for gambling operators.

The introduction of a supervision levy (***Recommendation 9***) was generally supported by industry and community stakeholders alike. However, the casinos sought for further information on the levy amount and how the levy would be apportioned between casino licensees. Under the Bill, the Minister is responsible for fixing the total levy amount which will be apportioned between the casino licensees under a regulation. Before recommending the making of a regulation prescribing the proportion payable by a casino licensee for a financial year, the Bill provides that the Minister may have regard to the actual or estimated casino gross revenue for the casino for one or more previous financial years and the actual or estimated casino gross revenue for all casinos in the same period.

Community stakeholders and The Star support the proposal to introduce periodic reviews into casino operations and suitability of casino entities and their associates (***Recommendation 10***). The Reef Hotel Casino supports the proposal in-principle but noted some concerns about the potential financial implications on the casino. Although casino entities will bear responsibility for the costs of the periodic reviews, the impacts are mitigated by the fact that if the chief executive seeks an upfront payment to help cover the costs of a review, the chief executive must refund any overpayment of costs paid by a casino entity at the end of the review.

The proposal to require casino operators to take reasonable steps to establish and exclude persons who are subject to interstate police commissioner exclusion directions (***Recommendation 11***) received general support from community stakeholders, The Reef Hotel Casino, and the special manager for Treasury Brisbane and The Star Gold Coast.

The Ville Resort-Casino supported the proposal in-principle but considered that there should be a requirement for casino operators to be notified by a reliable source when an interstate police commissioner initiated exclusion is implemented because casino operators often only become aware of a person's exclusion from other casinos through media, hearsay or other unreliable means. The Star similarly submitted that there should be an obligation on casino operators and police to provide written notice of exclusions to all casino operators. The Bill does not provide for how casino operators are to become aware of interstate police commissioner initiated exclusions. This is considered to be a matter of due diligence and good corporate citizenship for casino operators given the numerous ways in which interstate police commissioner initiated exclusions may come to the attention of casino operators.

Other casino reforms

Solidify the control on the use of cash for gambling in casinos

The Star supported the proposal to solidify the control on the use of cash for gambling in casinos but sought a reasonable opportunity to implement the required controls. The Bill provides transitional provisions which provide deemed chief executive approval for cash as a payment method for all transaction types under the Casino Control Act. The deemed approval applies until the chief executive revokes the approval.

Impose a new duty on particular officers to encourage the exercise of due diligence in the oversight of casino operations

The Star supported the proposal to impose a new duty on particular officers in principle.

Provide the chief executive with real time access to the casino operators' electronic systems

The Star supported the proposal to provide real time access to the casino operators' electronic systems.

The Alliance for Gambling Reform submitted that the system that holds the data collected from carded play should be owned separately to the casino and not have any conflicts of interest with other gambling companies. The Alliance for Gambling Reform urged against casino operators being the main repository of the data to ensure and independent and conflict free system without delays to data access or the possibility of inaccurate data. However, the chief executive has wide ranging powers to obtain player card information under the Bill. Casino operators are required to give regular reports to the chief executive which contain de-identified player card information. The reports must be given at the times prescribed by the regulation. A maximum penalty of 100 penalty units applies for a breach. The chief executive may also, at any time, give a notice to the casino operator requiring the operator to give other stated player card information. The casino operator must comply with the notice by the due day or face a maximum penalty of 160 penalty units.

Modernise how inspectors obtain information

To support the timely provision of information to inspectors, the Star submitted that consideration should be given to including specific time limits (e.g. within 24 hours) when requiring the production of things or the supply or provision of information. The Bill provides for inspectors to request information be given in a stated way and at a stated time.

Remove redundant legislative references to casino based keno games

The Star supported the proposal to remove redundant references to casino based keno games under the casino control legislation.

Allow minors and excluded persons found on casino premises to remain on premises if they are assisting a casino inspector or police officer in the performance of their functions

The Star suggested there should be legislative clarity that a casino operator will not be penalised if they allow an excluded person or a minor to remain in the casino at the request of a casino inspector or a Queensland Police Officer. The Bill provides that the offence of allowing an excluded person or minor to remain in the casino does not apply if the casino operator, or its employee or agent, believes the excluded person or minor is remaining in the casino to assist an inspector or police officer in the performance of their functions.

The Alliance for Gambling Reform noted it is important that interviews conducted with excluded persons or minors as part of an investigation do not happen in an area where there is gambling visible or audible. The intent of the Bill is to allow excluded persons and minors to be interviewed in secluded areas such as interview rooms located in the casino.

Increase penalties under the casino control legislation

The Alliance for Gambling Reform supports increasing the penalties for particular offences.

Consistency with legislation of other jurisdictions

Amendments to facilitate the implementation of *Recommendations 1 to 11* of the Gotterson Review

The Bill, as it relates to ***Recommendations 1 to 11*** of the Gotterson Review, is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state.

However, the casino legislation of other jurisdictions, including New South Wales and Victoria, has been taken into consideration in developing the Bill particularly in respect of amendments relating to carded play, cashless gambling, pre-commitment, a supervision levy, and periodic reviews.

Amendments to implement other reforms to enhance the casino regulatory framework

The Bill, as it relates to the additional casino reform measures, is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Part 1 Preliminary

Clause 1 provides the short title by which the Bill will be known once enacted.

Clause 2 provides for the provisions of the Bill that will commence by proclamation. The remainder of the Bill commences on assent.

Part 2 Amendment of the Casino Control Act 1982

Clause 3 provides that Part 2 of the Bill amends the Casino Control Act.

Clause 4 amends section 17 to replace the reference to 'commissioner of police service' and 'commissioner of the police service' with 'police commissioner'.

Clause 5 amends section 20(3) to replace the reference to 'commissioner of the police service' with 'police commissioner'.

Clause 6 amends section 29A(2) to increase the maximum penalty from 40 to 100 penalty units.

Clause 7 amends section 30(2) to provide that the Minister may have regard to the report given to the Minister under new section 90S when undertaking an investigation into suitability.

The clause also amends section 30(4) to replace the reference to 'commissioner of the police service' with 'police commissioner'.

Clause 8 amend section 30B to omit the definition of 'agreement Act'. The definition of 'agreement Act' is transferred to the Schedule Dictionary.

Clause 9 amends section 31(1)(f) to provide that a ground for taking disciplinary action against a casino entity also arises if because of a review or a full review carried out under new Part 9, Division 3B, the Governor in Council or Minister is not satisfied that a casino entity is a suitable person to be associated or connected with the management and operations of a hotel-casino complex or casino; or is not satisfied that a person, associated or connected with the ownership, administration or management of the operations or business of the entity is a suitable person to be associated or connected with the management and operations of a hotel-casino complex or casino.

Clause 10 amends sections 34(2) and 34(3) to increase the maximum penalty from 200 to 400 penalty units.

Clause 11 amends sections 36(3) and 36(4) to increase the maximum penalty from 200 to 400 penalty units.

Clause 12 amends section 37(3) to replace the reference to 'commissioner of the police service' with 'police commissioner'.

Clause 13 amends section 43A(8) to replace the reference to 'commissioner of the police service' with 'police commissioner'.

Clause 14 amends section 47(2) to increase the maximum penalty from 40 to 100 penalty units.

Clause 15 omits the reference to fees in the heading of Part 5.

Clause 16 omits section 50 which provides the need for a casino licence fee to be paid in respect of a casino licence.

Clause 17 inserts a new Part 5, Division 1 which deals with the annual supervision levy.

New section 50 provides that the purpose of new Part 5, Division 1 is to fund the regulation and oversight of casinos in a way that promotes the object of the Casino Control Act and the conduct of programs aimed at reducing harm from gambling in Queensland.

New section 50A provides that for each financial year in which a casino licensee holds a casino licence, the casino licensee must pay a supervision levy of the amount for which the licensee is liable under new section 50B.

New section 50B provides that before the start of each financial year, the Minister must fix the total amount of the supervision levy that is payable for the financial year for all casino licences, and the chief executive must notify the amount fixed by the Minister on the department's website. However, the Minister may fix the total levy amount for a financial year, and the chief executive may notify the amount fixed, after 1 July in a financial year with retrospective operation to 1 July.

A casino licensee is liable for the proportion of the total levy amount prescribed by a regulation. Before recommending to the Governor in Council the making of a regulation prescribing the proportion of the total levy payable by a casino licensee for a financial year, the Minister may have regard to the actual or estimated total casino gross revenue for the licensee's casino for the months in one or more previous financial years compared with the actual or estimated total casino gross revenue for all casinos for the same period.

New section 50C provides that the chief executive must give a notice to each casino licensee before or during each financial year stating, among other prescribed matters, the amount of the supervision levy payable by the casino licensee for the financial year and when each instalment of the levy must be paid by. The notice may require instalment payments in advance.

New section 50D provides that the supervision levy is a controlled receipt for the *Financial Accountability Act 2009* and may be used for the purpose stated in new section 50.

New section 50E provides the operation of new Part 5, Division 1, including the framework used by the Minister to fix the total levy amount for each financial year, must be reviewed within three years of commencement of the section as soon as practicable and at intervals of

not more than 5 years thereafter. The reviewer must give a report on the review to the Minister and the Minister must table a copy of the report in the Legislative Assembly within three sitting days.

Clause 18 inserts a new Part 5, Division 2 heading.

Clause 19 inserts a new Part 5, Division 3 heading.

Clause 20 omits the reference to casino licence fees from the section.

Clause 21 amends section 55(1) to replace the reference to 'casino licence fee' with 'supervision levy'. The clause further amends section 55 to provide that any penalty or additional penalty received under the section on an amount charged on unpaid supervision levy is a controlled receipt for the *Financial Accountability Act 2009* and may be used for the purpose stated in new section 50. Any penalty or additional penalty received under the section on an amount charged on unpaid casino tax must be paid to the consolidated fund.

Clause 22 omits the reference to 'fees' under section 56 as there are no fees payable in accordance with Part 5.

Clause 23 omits the reference to 'fees' under section 57 as there are no fees payable in accordance with Part 5.

Clause 24 inserts a new Part 6, Division 1 heading.

Clause 25 amends sections 59(1) and 59(2) to increase the maximum penalty from 40 to 200 penalty units.

Clause 26 amends section 60(2) to increase the maximum penalty from 40 to 100 penalty units.

Clause 27 amends sections 61(2) and 61(8) (re-numbered as section 61(10)) to increase the maximum penalty from 40 to 200 penalty units. The clause also amends section 61(6) to increase the maximum penalty from 100 to 200 penalty units

Clause 28 amends section 62 to provide that the chief executive's approval of gaming equipment must include approval of anything relating to the equipment for which there is a requirement under new sections 72E or 72M

The clause also amends section 62(21) to increase the maximum penalty from 40 to 200 penalty units.

Clause 29 amends sections 62A(1) and 62A(4) to increase the maximum penalty from 200 to 1,000 penalty units.

Clause 30 amends section 63(6) to increase the maximum penalty from 40 to 200 penalty units.

The clause also amends sections 63(9) and 63(10) to replace 'rules made under subsection (1) for the game' with 'rules of the game'.

Clause 31 amends section 64(1)(a) to provide that a casino operator must, when asked by a patron for a copy of the rules for the playing of a game other than a machine game, give the patron a copy of the rules of the game to look at.

Clause 32 omits section 64AA. Refences to casino based keno games are now redundant because keno in casinos is conducted under agency agreements with the keno licensee and is therefore subject to the Keno Act.

Clause 33 amends section 64A(4) to increase the maximum penalty from 20 to 40 penalty units.

Clause 34 amends section 65 to remove express references to 'cash' and 'tickets' to allow the chief executive the discretion to approve the use of cash and tickets where appropriate.

The clause also amends sections 65(3), 65(4) and 65(5) to increase the maximum penalty from 100 to 200 penalty units.

Clause 35 amends section 65B(2) to replace the reference to section 65(9) with section 65(11).

Clause 36 inserts a new section 66A to provide that a regulation may prescribe a maximum amount that a person may expend in cash transactions in a casino within a 24 hour period and a casino to which the prescribed limit applies. A prescribed casino must not allow a person to carry out a cash transaction, or a combination of cash transactions, that is more than the prescribed limit. A maximum penalty of 200 penalty units applies for a breach.

Clause 37 section 67(2) to increase the maximum penalty from 40 to 200 penalty units.

The clause also removes express references to 'cash' to allow the chief executive the discretion to approve the use of cash where appropriate.

Clause 38 amends section 67A(2) to increase the maximum penalty from 40 to 100 penalty units.

Clause 39 amends section 68(2) to increase the maximum penalty from 40 to 100 penalty units.

Clause 40 amends section 69(1) to removes express references to 'cash' to allow the chief executive the discretion to approve the use of cash where appropriate.

Clause 41 amends section 70 to increase the maximum penalty from 40 to 100 penalty units.

Clause 42 amends section 71 to increase the maximum penalty from 40 to 100 penalty units.

Clause 43 insets new Divisions 2 and 3 in Part 6 dealing with player cards and pre-commitment systems.

New section 72D provides definitions for 'de-identified player card information', 'player card information', 'prescribed activity' and 'prescribed game'.

New section 72E provides that a regulation may provide that a person must not be allowed to play a stated game or carry out a stated activity associated with playing a game in a stated casino other than by use of a player card in accordance with the regulation.

New section 72F provides that a casino operator must ensure a person does not play a prescribed game or carry out a prescribed activity in the casino other than by use of a player card in accordance with the regulation under new section 72E. A maximum penalty of 200 penalty units applies for a breach.

A casino operator must also not allow a person to play a prescribed game or carry out a prescribed activity in the casino using a player card that the casino operator knows, or ought to reasonably know, does not belong to the person. A maximum penalty of 200 penalty units applies for a breach.

New section 72G provides that a person must not, in a casino, play a prescribed game or carry out a prescribed activity other than by use of a player card in accordance with a regulation under new section 72E; play a prescribed game or carry out a prescribed activity using a player card that does not belong to the person; or allow someone else to use the person's player card to play a prescribed game or carry out a prescribed activity. A maximum penalty of 40 penalty units applies for a breach.

New section 72H provides the chief executive may give a notice to a casino operator requiring the casino operator to ensure that player cards are capable of securely recording and transferring particular information that the chief executive needs for the purpose of the administration or enforcement of the Act in relation to the casino, or research, by the chief executive or another entity, into harm from gambling. Failure to comply with the notice attracts a maximum penalty of 160 penalty units.

New section 72I provides the casino operator must give the chief executive reports containing de-identified card information. A maximum penalty of 100 penalty units applies for a breach. The reports must include the de-identified player card information prescribed by regulation; be given at the times prescribed by regulation; and be in the approved form.

New section 72J provides the chief executive may give a notice to the casino operator requiring the operator to give stated player card information. The chief executive may only require the provision of information under new section 72J for the purpose of the administration or enforcement of the Act in relation to the casino, or research into harm from gambling. The chief executive may seek identifiable or non-identifiable information. However, a requirement to provide stated player card information for the purpose of research into harm from gambling must be for the provision of de-identified player card information. Failure to comply with the notice attracts a maximum penalty of 160 penalty units.

New section 72K provides the chief executive may give de-identified player card information to an entity for the purpose of research into harm from gambling.

New section 72L defines 'pre-commitment system'.

New section 72M provides that a regulation may provide that a person must not be allowed to play a stated game or carry out a stated activity associated with playing a game in a stated casino other than under a pre-commitment system in accordance with the regulation.

New section 72N provides that a casino operator must ensure a person does not play a prescribed game or carry out a prescribed activity other than under a pre-commitment system in accordance with a regulation under new section 72M. A maximum penalty of 200 penalty units applies for a breach.

Clause 44 amends sections 77(1) and 77(2) to increase the maximum penalty from 40 to 125 penalty units.

Clause 45 amends section 78 to increase the maximum penalty from 40 to 100 penalty units.

Clause 46 amends section 79 to increase the maximum penalty from 40 to 100 penalty units.

Clause 47 amends sections 81(1) and 81(3) (re-numbered as section 81(4)) to increase the maximum penalty from 40 to 100 penalty units.

Clause 48 amends section 84(2) to increase the maximum penalty from 40 to 400 penalty units.

Clause 49 amends section 85H(1) to provide that in exercising a power under the Act in relation to a person in the person's presence, an inspector must produce the inspector's identity card for inspection before exercising the power, or have the identity card displayed when exercising the power.

Clause 50 amends section 85M to replace the reference to 'commissioner of the police service' with 'police commissioner'.

Clause 51 amends section 86(2) to increase the maximum penalty from 100 to 200 penalty units. The clause also amends section 86(3) to increase the maximum penalty from 10 to 20 penalty units.

Clause 52 amends section 88(1)(a) to provide an inspector may require any person who has in their possession or control gaming equipment, chips, books, accounts, records or documents related to the operation of a casino or to the administration of the Act to make those things available for inspection or to produce those things for inspection, or to answer questions or give information about those things at a stated time, and in a stated way.

The clause also amends section 88(1)(f) to provide that an inspector may require a casino entity (i.e. a casino licensee, lessee, operator), licensed casino employee or any other person associated with the operation or management of a casino to give, by a stated time and in a stated way, information relating to the management or operation of the casino or if the information is kept, stored or recorded electronically, a clear written reproduction of the information. An inspector may also require such persons to attend before the inspector at a stated time and place to answer questions or give information about the management or operation of the casino.

The clause additionally amends section 88(6)(b) to provide that any requirement made under section 88 may be made by written notice given to the person of whom the requirement is made, as well as verbally.

Clause 53 amends section 89(b) to provide that a person must not, when required under the Act to make available or produce for inspection any gaming equipment, chips or records, fail to make available or produce them in accordance with the requirement.

Clause 54 omits section 90A. The definitions of 'agreement Act' and 'casino agreement' are transferred to the Schedule Dictionary.

Clause 55 amends section 90H(1) to increase the maximum penalty from 120 to 400 penalty units.

Clause 56 inserts new Divisions 3A and 3B in Part 9.

New section 90J provides that the casino operator must give the chief executive full, independent and real time (or as close to real time as is practicable) access to certain electronic systems used by the casino operator. A maximum penalty of 160 penalty units applies for a breach.

The chief executive may direct the casino operator to do, or stop doing, a stated thing by a stated time to enable the chief executive to obtain access to the electronic systems. The casino operator must comply with the written direction unless the casino operator has a reasonable excuse. A maximum penalty of 100 penalty units applies for a breach.

New section 90J also clarifies that information obtained because of access given to the casino operator under the provision is admissible in evidence in a proceeding against the casino operator for an offence.

New section 90K defines 'casino entity'.

New 90L provides that at any time, the chief executive may cause a review to be carried out about a matter relating to a casino licence. However, the chief executive must cause full reviews to be carried out for each casino licence at intervals of not more than 5 years. A regulation may postpone the time by which a full review must be carried out to a day not more than 7 years after the last full review.

The provision also provides that reviews may be conducted into casino licences separately or concurrently.

New section 90M provides that the chief executive must appoint an appropriately qualified person to carry out a review who is subject to the directions of the chief executive in relation to the conduct of the review. The instrument of appointment must include, among other things, the matters that the reviewer must inquire into.

New section 90N provides for the matters which a full review of a casino licence must and may inquire into.

New section 90O provides a reviewer has the ordinary commission powers in the conduct of a review. The reviewer also has special commission powers if the reviewer is a Supreme Court judge or an Australian lawyer of at least seven years standing, and the reviewer's appointment states that the reviewer has special commission powers.

New section 90P provides that it is not a reasonable excuse for a witness to a review to refuse to produce a document or other thing requested by the reviewer on the basis that the document or thing is the subject of legal professional privilege. A person attending before a reviewer is not entitled to remain silent; refuse or fail to answer any question; or refuse or fail to produce any document, property or other thing on the ground of legal professional privilege. The section also provides that information does not cease to be the subject of legal professional privilege only because it is given to the reviewer under Part 9, Division 3B.

New section 90Q provides that review proceedings may be held in public or in private.

New section 90R provides casino entities for the casino licence to which a review relates are liable for the costs of conducting the review. The chief executive may issue a payment notice requiring payment of anticipated or actual costs of the review as the case may be. If a casino entity pays an amount for costs that are expected to be incurred and the actual amount incurred is less, then the chief executive must provide a refund. An amount that is required to be paid under a payment notice is a debt payable to the State.

New section 90S provides that the reviewer for a review must give a report on the review to the Minister and chief executive. The chief executive may publish the report in full or in part, including in redacted form. The chief executive must withhold from publishing in the report anything the chief executive is satisfied is commercial in confidence, information about an individual's personal affairs, or information that would be against the public interest to publish.

Clause 57 omits section 91 which relates to inquiries into the operation of a casino.

Clause 58 amends section 91A to clarify that a person given an exclusion notice under section 92 may apply to the tribunal for a review of the notice.

Clause 59 inserts a new Part 10, Division 1AA.

New section 91E introduces new duties for an officer of a casino operator and an officer of a casino operator's holding company. Under the section, an officer must take reasonable steps to ensure certain matters or face a maximum penalty of 1,000 penalty units. In deciding what reasonable steps must be taken by an officer, a court must have regard to the nature of the officer's office and the extent to which the officer is in a position to influence the operation of the casino.

Clause 60 amends section 91O(1)(b) to replace the reference to 'problem gamblers' with 'persons experiencing harm from gambling'.

Clause 61 inserts a new section 91Q which states that Part 10, Division 1, Subdivision 2 provides for a casino operator or casino manager to give an exclusion notice to a person prohibiting the person from entering or remaining in the casino. The subdivision also provides for the giving of a direction under section 93A or new section 94. If a casino

operator operates more than one casino, an exclusion notice or direction under section 93A or new section 94 may relate to a stated casino or all Queensland casinos operated by the casino operator.

New section 91Q additionally provides that the giving or revocation of an exclusion notice or direction applying to a person under a particular provision does not prevent the giving or revocation, or affect the operation, of an exclusion notice or direction applying to the person under another provision.

Clause 62 amends section 92 to provide that a casino operator or casino manager may give an exclusion notice to a person prohibiting the person from entering or remaining in the casino. The exclusion notice must be accompanied by an information notice for the decision to give the exclusion notice.

Clause 63 amends section 93A to replace references to 'problem gambler'.

The clause also omits section 93A(3) which is now covered by new section 91Q(3).

Clause 64 replaces section 94 and 96.

New section 94 provides that the Queensland police commissioner may give a written direction to a casino operator to exclude a stated person from the casino. The Queensland police commissioner may notify an interstate police commissioner, an authority responsible for administering gaming legislation of another State, and the chief executive that the Queensland police commissioner has given a direction.

After receiving a direction from the Queensland police commissioner, the casino operator must give the person an exclusion notice as soon as practicable if the direction includes the person's address and in any case, immediately if the casino operator becomes aware the person has entered, or is trying to enter, a casino to which the direction applies. To be clear, a casino operator who has given a person an exclusion notice under new section 94(4)(a) is not required to give another exclusion notice to the person under new section 94(4)(b).

The clause inserts a new section 95 which provides that if a casino operator becomes aware that a person is the subject of an interstate exclusion, the casino operator must give the person an exclusion notice relating to all casinos in Queensland operated by the casino operator as soon as practicable if the casino operator can establish the person's address or in any case, immediately if the casino operator becomes aware that the person has entered, or is trying to enter, a casino in Queensland operated by the casino operator. A maximum penalty of 250 penalty units applies for a breach. However, the obligation to give the person an exclusion notice does not apply if the casino operator cannot establish the person's identity after making all reasonable enquiries.

Furthermore, to be clear, a casino operator who has given a person an exclusion notice under new section 95(2)(a) is not required to give another exclusion notice to the person under new section 95(2)(b).

Within 14 days after becoming aware that a person is the subject of an interstate exclusion, the casino operator must notify the chief executive and the Queensland Police Commissioner whether, among other things, the casino operator has given the person an exclusion notice

and if the casino operator has not given the person an exclusion notice, the enquiries the casino operator has made to establish the person's identity.

The casino operator must also notify each other Queensland casino operator about a person immediately after the casino operator becomes aware that the person is the subject of an interstate exclusion or if the casino operator cannot establish the person's identity at that time, immediately after establishing the person's identity. A maximum penalty of 60 penalty units applies for a breach.

New section 96 provides that an exclusion notice or a direction by the police commissioner under new section 94 has effect until it is revoked.

Clause 65 inserts a new Part 10, Division 1, Subdivision 2A heading.

The clause also inserts new section 97A which provides that a casino operator may, by notice given to a person, revoke an exclusion notice given to the person under section 92.

Clause 66 inserts a new section 99A and section 99B.

New section 99A provides that the police commissioner may revoke a direction given to a casino operator under new section 94(1) in relation to a person. If a casino operator has given an exclusion notice to the person in compliance with the police commissioner's directions, the casino operator must revoke the exclusion notice.

New section 99B provides that a casino operator may revoke an exclusion notice given to a person under new section 95 if no interstate exclusion remains in effect for the person and the casino operator has given the police commissioner at least 30 days written notice of the proposed revocation. There is no requirement for the casino operator to obtain the police commissioner's approval for the proposed revocation before revoking the exclusion notice at the end of the 30 day period.

New section 99B permits a casino operator to revoke an exclusion notice given to a person under new section 95 in other circumstances if authorised by the police commissioner. For example, the police commissioner may authorise a casino operator to revoke an exclusion notice relating to a person even though an interstate exclusion remains in effect for the person.

Clause 67 inserts a new section 99C which defines 'person experiencing harm from gambling'. The definition reflects the previous definition of 'problem gambler'.

Clause 68 amends section 100 to also prohibit a person who is under an exclusion notice given under new section 95 from entering or remaining in a casino.

The section is also amended to provide that although it is an offence for an excluded person to enter or remain in the casino, the offence does not apply in relation to a period during which the excluded person remains in the casino for the purpose of helping an inspector or a police officer in the performance of the inspector's or police officer's functions. To be clear, an excluded person who enters or remains in the casino will have committed the offence up to the point they are assisting an inspector or police officer.

Clause 69 amends section 100A to replace 'defendant is a problem gambler' with 'defendant is experiencing, or at risk of experiencing, harm from gambling'.

Clause 70 amends section 100B to provide that the section also applies to a casino operator, or an employee or agent of the casino operator, if the casino operator, employee or agent knows that – a person is prohibited from entering or remaining in the casino under an exclusion notice given under section 95; the Queensland Police Commissioner has given a direction to the casino operator under section 94; or the casino operator is required under new section 95(2) to give an exclusion notice.

The clause additionally amends section 100B to increase the maximum penalty applying to a casino operator or another person for failing to take reasonable steps to prevent an excluded person from entering or remaining in the casino.

A new offence is also provided in section 100B. If a casino operator becomes aware that a person has entered a casino in contravention of an exclusion notice given under new sections 94 or 95, the casino operator must immediately notify the police commissioner. A maximum penalty of 200 penalty units applies for a breach.

The clause also inserts a new subsection in section 100B to provide that sections 100B(2) and 100B(3) do not apply in relation to the casino operator, employee or agent, in relation to the person remaining in the casino, if the casino operator, employee or agent believes the person is remaining in the casino for the purpose of helping an inspector or a police officer in the performance of the inspector's or police officer's functions.

Clause 71 amends section 100C(1) to require a casino operator to also keep a register of persons who are prohibited from entering or remaining in the casino under an exclusion notice under new section 95; persons in relation to whom the police commissioner has given a direction to the casino operator under new section 94; and persons who the casino operator is aware are the subject of an interstate exclusion. The clause additionally increases the maximum penalty applying to a breach of section 100C(1) from 40 to 60 penalty units.

Clause 72 amends section 100D(4) to increase the maximum penalty from 40 to 60 penalty units.

Clause 73 inserts a new section 100DA which imposes an obligation on a casino operator to inform other Queensland casino operators about an exclusion action taken by the casino operator in relation to a person. A maximum penalty of 60 penalty units applies for a breach.

Upon receiving a notification from another Queensland casino operator about an exclusion action in relation to a person, a casino operator must decide whether the casino operator should also take exclusion action in relation to the person and record certain details in a register. A maximum penalty of 60 penalty units applies for a breach. The register must be available for inspection by an inspector.

Clause 74 amends section 100E to increase the maximum penalty from 40 to 60 penalty units.

Clause 75 inserts new sections 100F and 100G.

New section 100F provides that a casino operator must not send promotional or advertising material directly to a person in Queensland unless the person has given express and informed consent and the person has not withdrawn the consent and communicated the withdrawal to the casino operator. A maximum penalty of 200 penalty units applies for a breach.

If a person consents to receiving promotional or advertising material from a casino operator, the casino operator must provide the person with a means of easily withdrawing the consent at any time. If promotional or advertising material is sent electronically, the material must include a link or other mechanism that the person may easily use to withdraw their consent. A maximum penalty of 200 penalty units applies for a breach.

A casino operator must not offer a person any benefit as an incentive to give or not to withdraw consent to receive promotional or advertising material from the casino operator. A maximum penalty of 200 penalty units applies for a breach.

A casino operator must not require a person to give consent to receiving promotional or advertising material as a condition of obtaining a player card. A maximum penalty of 200 penalty units applies for a breach.

New section 100G provides that a casino operator must not give, or offer to give, a person an inducement to enter or remain in the casino if the casino operator knows, or ought reasonably to know, that the person is the subject of an interstate exclusion.

Clause 76 amends section 102 to replace references to person/s under 18 years with minor/s.

The clause also amends section 102 to provide that section 102(1) and 102(2) do not apply to a minor who is in a casino for an official assistance purpose.

The clause increases the maximum penalty applying to – section 102(3) (re-numbered as section 102(6)) from 100 to 150 penalty units; section 102(3A) (re-numbered as section 102(8)) from 20 to 40 penalty units; section 102(3B) (re-numbered as section102(10)) from 200 to 250 penalty units; section 102(3C) (re-numbered as section 102(11)) from 200 to 250 penalty units; section 102(4A) (re-numbered as section 102(15)) from 20 to 25 penalty units.

The clause also amends section 102 to provide that sections 102(1) and 102(2) do not apply to a minor in relation to a period during which the minor is in a casino for an official assistance purpose. Additionally, section 102(6) does not apply to a casino operator, employee or agent in relation to a period during which the casino operator, employee or agent believes the minor is remaining in the casino for an official assistance purpose. Also, section 102(8) does not apply to an adult in relation to a period during which the adult believes the minor is remaining in the casino for an official assistance purpose. Further, section 102(15)(b) does not apply to a person in a casino for an official assistance purpose.

Clause 77 amends section 107 to increase the maximum penalty from 200 to 400 penalty units.

Clause 78 amends section 108(1) to increase the maximum penalty from 100 to 400 penalty units.

Clause 79 amends section 109 to increase the maximum penalty from 200 to 500 penalty units.

Clause 80 amends section 110 to increase the maximum penalty from 100 penalty units or 1 year's imprisonment to 400 penalty units or 2 years imprisonment.

Clause 81 amends section 110A(1)(a) to replace 'rules made under section 63(1)' with 'rules of the game'.

Clause 82 amends section 114(3) to omit the definitions of 'agreement Act' and 'casino agreement'. The definitions are transferred to the Schedule Dictionary.

Clause 83 amends section 126(a) to replace the reference to 'commissioner of the police service' with 'police commissioner'.

Clause 84 inserts a new section 126A to provide that a regulation may contain a code of conduct for casino operators. The code may impose obligations on casino operators and their employees and agents and provide for any matter for the purpose of ensuring safer gambling in casinos, the appropriate conduct of casino operations, and the implementation of appropriate practices, systems and procedures relating to the governance, accountability and integrity of casino operators.

The code may provide for a maximum penalty of 200 penalty units for a contravention of the code for a casino operator and a maximum penalty of 20 penalty units for other persons.

New section 126A provides that an entity making a decision under the Act about the suitability of a person to whom the code applies may have regard to the person's compliance with the code.

Clause 85 inserts a new Part 11, Division 12.

New section 153 provides definitions for 'amendment Act', 'former' and 'new' as they apply to new Part 11, Division 12.

New section 154 provides that despite its repeal by the amendment Act, former section 50 continues to apply in relation to a quarter that started before the commencement of new section 154. Additionally, despite their amendment by the amendment Act, former sections 54 to 57 continue to apply in relation to a licence fee payment under former section 50.

New section 155 provides that in relation to the making of a regulation prescribing the proportion of the total levy amount payable for a financial year by the casino licensee for the Queen's Wharf casino, a reference to new section 50B(5)(a) to the casino is a reference to the Queen's Wharf casino and Brisbane casino.

New section 156 provides that the use or payment of cash or tickets is taken to be a method or way approved by the chief executive. The deemed approval applies until the chief executive revokes the approval.

Clause 86 amends the Schedule Dictionary to omit, replace and insert various definitions.

Part 3 Amendment of the Casino Control Regulation 1999

Clause 87 provides that Part 3 of the Bill amends the *Casino Control Regulation 1999*.

Clause 88 amends section 14 to increase the maximum penalty from 10 to 20 penalty units.

Clause 89 amends section 17(5) to increase the maximum penalty from 10 to 20 penalty units.

Clause 90 amends section 20(2) to increase the maximum penalty from 10 to 20 penalty units.

Clause 91 amends section 26 to increase the maximum penalty from 10 to 20 penalty units.

Clause 92 amends section 31 to increase the maximum penalty from 10 to 20 penalty units.

Clause 93 amends section 32 to increase the maximum penalty from 10 to 20 penalty units.

Clause 94 amends section 33 to increase the maximum penalty from 10 to 20 penalty units.

Clause 95 amends section 34(2) to increase the maximum penalty from 10 to 20 penalty units.

Clause 96 amends sections 37(1) and 37(3) to increase the maximum penalty from 10 to 20 penalty units.

Clause 97 amends sections 38(1) and 38(3) to increase the maximum penalty from 10 to 20 penalty units.

Clause 98 amends section 39(1) to increase the maximum penalty from 10 to 20 penalty units.

Clause 99 amends sections 40(2) and 40(3) to increase the maximum penalty from 10 to 20 penalty units.

Clause 100 amends schedule 4 to remove the casino licence fee.

Part 4 Amendment of the Gaming Machine Act 1991

Clause 101 provides that Part 4 of the Bill amends the Gaming Machine Act.

Clause 102 amends section 55B to replace references to ‘responsible gambling’ with ‘safer gambling’ and to provide that the purpose of the statement of safer gambling initiatives is to help the commissioner assess the adequacy of the applicant’s approach to providing a safer gambling environment.

Clause 103 amends section 261A(1)(b) to replace ‘problem gamblers’ with ‘persons experiencing harm from gambling’.

Clause 104 amends section 261C(1) to replace ‘a person is a problem gambler’ with ‘a person is experiencing, or at risk of experiencing, harm from gambling’.

Clause 105 inserts a new section 261FA to provide that a reference to a person experiencing harm from gambling is a reference to a person whose behaviour relating to gambling is characterised by difficulties in limiting the amount of money or time the person spends on gambling; and is adversely affecting the person, other persons or the community.

Clause 106 amends section 261H to replace references to ‘the defendant is a problem gambler’ with ‘the defendant is experiencing, or at risk of experiencing, harm from gambling’.

Clause 107 inserts a new Part 12, Division 24.

New section 494 provides that former section 55B continues to apply in relation to an application of significant community impact made before the commencement and accompanied by a statement of responsible gambling initiatives.

Clause 108 amends schedule 2 to omit the definition of ‘problem gambler’.

Part 5 Amendment of the Gaming Machine Regulation 2002

Clause 109 provides that Part 5 of the Bill amends the Gaming Machine Regulation.

Clause 110 amends section 28 to replace ‘problem gamblers’ with ‘persons experiencing, or at risk of experiencing, harm from gambling’.

Part 6 Amendment of the Keno Act 1996

Clause 111 provides that Part 6 of the Bill amends the Keno Act.

Clause 112 amends section 154B(1)(b) to replace ‘problem gamblers’ with ‘persons experiencing harm from gambling’.

Clause 113 amends section 154D(1) to replace ‘person is a problem gambler’ with ‘person is experiencing, or at risk of experiencing, harm from gambling’.

Clause 114 inserts a new section 154GA to provide that a reference to a person experiencing harm from gambling is a reference to a person whose behaviour relating to gambling is characterised by difficulties in limiting the amount of money or time the person spends on gambling, and is adversely affecting the person, other persons or the community.

Clause 115 amends section 154I(2) to replace ‘defendant is a problem gambler’ with ‘defendant is experiencing, or at risk of experiencing, harm from gambling’.

Clause 116 amends schedule 4 to omit the definition of ‘problem gambler’.

Part 7 Amendment of the Wagering Act 1998

Clause 117 provides that Part 7 of the Bill amends the Wagering Act.

Clause 118 amends section 216B(1)(b) to replace ‘problem gamblers’ with ‘persons experiencing harm from gambling’.

Clause 119 amends section 216D(1) to replace ‘person is a problem gambler’ with ‘person is experiencing, or at risk of experiencing, harm from gambling’.

Clause 120 inserts a new section 216GA to provide that a reference to a person experiencing harm from gambling is a reference to a person whose behaviour relating to gambling is characterised by difficulties in limiting the amount of money or time the person spends on gambling, and is adversely affecting the person, other persons or the community.

Clause 121 amends section 216I to replace ‘defendant is a problem gambler’ with ‘defendant is experiencing, or at risk of experiencing, harm from gambling’.

Clause 122 amends schedule 2 to omit the definition of ‘problem gambler’.