

CLAUSE NOTES

Gaming Control Amendment (Wagering) Bill 2019

PART 1 - PRELIMINARY

- Clause 1 Cites the proposed legislation as the *Gaming Control Amendment (Wagering) Act 2019*.
- Clause 2 Allows the proposed legislation to commence on Royal Assent except for Part 3 which commences on 1 January 2020 - being the provisions requiring betting operators to pay point of consumption tax.

PART 2 - GAMING CONTROL ACT 1993 AMENDED

- Clause 3 In this Part 2, the *Gaming Control Act 1993* is referred to as the Principal Act. Part 2 provides for miscellaneous wagering provisions and introduces elements of the National Consumer Protection Framework for Online Wagering in Australia reforms.
- Clause 4 Amends section 3 of the Act (Interpretation).
- Inserts the definition of "Commissioner of State Revenue".
- Omits the term "prescribed event" within the definitions of "gaming activity" and "player" as it is no longer relevant.
- Omits the definition of "totalizator" and inserts a reference to "totalizator pool" which is defined under new section 4D (refer Clause 5).
- Clause 5 Inserts a new section 4D (Meaning of totalizator) and provides definitions of the meaning of totalizator, totalizator pool and pool top-up amount that are used in the Act.
- Extends the totalizator definition to allow for a pool top-up and minimum pool amount where the operator can add its own monies to a totalizator pool and provide a minimum pool guarantee to its customers (as it does in other jurisdictions in which it operates).
- A new formula has been inserted for determining the pool top-up amount.
- Clause 6 Amends section 67 of the Act (Only licensed technician to repair gaming equipment) to include an exception for licence holders to use persons (other than a licensed technician to service, repair and maintain gaming equipment), authorised by a contract (referred to as a "relevant contract" (refer to Clause 10) that has been approved by the Tasmanian Liquor and Gaming Commission.

- Clause 7 Amends section 76ZEH of the Act (Totalizator dividends and their calculation) to require the totalizator operator to declare the totalizator pool to be the amount available for payment of dividends, and that the means for calculating the minimum dividend and the mechanism for rounding dividends to be prescribed in regulations.
- It is intended that the amended regulations will reflect the current rounding to a 50 cents wagering unit and provide the totalizator operator with the ability to pay a minimum dividend of \$1.04 to customers (ie not to round down a calculated payout dividend) similar to other jurisdictions.
- Clause 8 Inserts a new section 76ZL (Self-limit on deposits by player) to require licensed providers to offer deposit limits to players with a wagering account in line with Measure 6 of the National Consumer Protection Framework for Online Wagering in Australia.
- Clause 9 Repeals section 76ZZAA (Trading Accounts). By removing this section, Measure 1 of the National Consumer Protection Framework for Online Wagering in Australia prohibiting lines of credit being offered by wagering providers can be implemented.
- Clause 10 Amends section 76ZZG of the Act (Approval of gaming equipment) to remove the requirement for the Commission to give notice of the setting of general gaming equipment standards in the *Gazette* and includes provision for the Commission to give notice of the setting of these standards to relevant licensed providers directly and by publishing on a website maintained by or on behalf of the Commission.
- Clause 11 Amends section 76ZZI of the Act (Approval of control system) to remove the requirement for the Commission to give notice of the setting of general control system standards in the *Gazette* and includes provision for the Commission to give notice of the setting of the standards to relevant licensed providers directly and by publishing on a website maintained by or on behalf of the Commission.
- Clause 12 Amends section 77V of the Act (Approval of certain contracts by Commission) to include a new class of contract under “relevant contract” between a licensed operator or licensed provider and an unlicensed third party provider of services relating to gaming or a gaming activity (for example, the engagement of third party cloud providers to host gaming equipment on the cloud). The approval granted by the Commission for the “relevant contract” may be subject to conditions as the Commission considers appropriate.
- Clause 13 Amends section 132 of the Act (Investigation of complaints) to correct an oversight to ensure an inspector can investigate complaints from a patron relating to the conduct of a gaming activity (that is, wagering).
- Clause 14 Amends section 133 of the Act (Powers of inspectors) to correct an oversight to ensure an inspector can inspect gaming equipment or other equipment used in relation to a gaming activity ie wagering.
- Clause 15 Amends section 134 (Search warrants) to correct an oversight to ensure an inspector or a police officer may apply to a magistrate for the issue of a search warrant regarding the conduct of a gaming activity ie wagering.

- Clause 16 Amends section 135 of the Act (Offences relating to inspectors) to correct an oversight to ensure a person must not fail to produce for inspection any gaming or other equipment used in relation to the conduct of a gaming activity (ie wagering).
- Clause 17 Amends section 150A of the Act (Taxation in respect of Tasmanian gaming licence) to omit the word "Treasurer" and replace it with "Commissioner of State Revenue" to ensure a licensed provider must pay tax to the Commissioner of State Revenue.
- Clause 18 Amends section 150AG of the Act (Set-off for good and services tax in respect of certain foreign games) to omit an unnecessary reference to the *Taxation Administration Act 1997*.

PART 3 - GAMING CONTROL ACT 1993 FURTHER AMENDED

- Clause 19 In Part 3 of this Act, the *Gaming Control Act 1993* is referred to as the Principal Act. Part 3 provides for point of consumption tax provisions.
- Clause 20 Inserts a new Division in Part 9, Division 1A - Point of consumption tax, including a number of new sections:
- Section 145A (Extraterritorial operation of Division) provides the intention of Parliament for Division 1A, as far as possible, to have extraterritorial operation.
 - Section 145B (Interpretation of Division) provides relevant definitions for the point of consumption provisions such as bet, betting operator, betting service, free bet.
 - Section 145C (Meaning of Tasmanian bet) specifies the meaning of a "Tasmanian bet" ie a bet made by a person located in Tasmania when the bet is made.
 - Section 145D (Meaning of net wagering revenue) provides for determining the net wagering revenue for Tasmanian bets of a betting operator using a totalizator; betting exchange; or made other than using a betting exchange or totalizator. This section also clarifies that the face value of free bets is not to be included.
 - Section 145E (Liability to pay point of consumption tax) requires a betting operator to pay tax on the betting operator's net wagering revenue for the financial year if the net wagering revenue is \$150 001 or more. Tax is payable at a rate of 15 per cent of the amount by which the betting operator's net wagering revenue exceeds \$150 000.
 - Section 145F (Point of consumption tax to be paid monthly) requires a liable betting operator to pay point of consumption tax monthly before, for, and after the 'qualifying month' (which is the first month of each financial year which the net wagering revenue of the betting operator is more than \$150 000). This section also stipulates that the tax payable in relation to a month, must be paid within 21 days from the end of the month.

- Section 145G (Annual reconciliation) provides for the annual recalculation of a betting operator's point of consumption liability at the end of the relevant financial year.
- Section 145H (Registration) provides for registration requirements for betting operators liable to pay point of consumption tax, including penalty provisions (fine not exceeding 100 penalty units) for non-compliance.
- Section 145I (Obligation to identify person's location) requires a betting operator, when receiving a bet, to take reasonable steps to identify the location of the person making the bet, including penalty provisions (fine not exceeding 100 penalty units) for non-compliance.
- Section 145J (Requirement to lodge monthly return) requires a betting operator to lodge a monthly return in the approved form, including penalty provisions (fine not exceeding 100 penalty units) for non-compliance.
- Section 145K (Exemption from monthly return for on-course bookmaking) provides a betting operator whose primary betting operations are on-course bookmaking an exemption to lodge monthly returns and postpones the time for payment of the tax, ie within 21 days of the end of the financial year.
- Section 145L (General exemption from monthly returns) provides the ability for the Commissioner of State Revenue to exempt a betting operator from the requirement to lodge monthly returns if the Commissioner considers it would be unduly onerous to do so. The exemption does not remove the obligation to pay point of consumption tax, rather it provides for postponing the time for payment of the tax.
- Section 145M (Treasurer to enter into agreements) provides the Treasurer the ability to enter into an agreement with one or more other Australian jurisdictions to establish and implement processes for achieving improvements in the collecting of taxes; interest and penalties imposed by the participating jurisdictions on wagering and betting operators that are carried on in multiple jurisdictions.
- Section 145N (Avoidance of point of consumption tax) provides that the Commissioner of State Revenue may disregard agreements, transactions or arrangements entered into by a person that have the effect of reducing, postponing or avoiding the liability of any person to the assessment, imposition or payment of point of consumption tax, including penalty provisions (fine not exceeding 100 penalty units) for non-compliance.

- Section 145O (Regulations) introduces regulation making power to be made with respect to the following:
 - methods for determining the location of persons making bets;
 - providing specified amounts associated with the making of bets (that are to be included or not included in net wagering revenue);
 - matters necessary to give effect to a multi-jurisdictional agreement;
 - specified persons or classes of persons that are or are not betting operators;
 - exceptions to an exemption from liability to pay point of consumption tax.

Clause 21 Amends section 148A of the Act (Annual Tasmanian gaming licence fee) to add an endorsement (simulated gaming) to existing multiple endorsements for which the holder of a Tasmanian gaming licence endorsed with the second totalizator endorsement is not required to make any payments to the Treasurer.

Clause 22 Amends section 150A of the Act (Taxation in respect of Tasmanian gaming licence) to remove the requirement for a licensed provider who is liable to pay point of consumption tax (under Division 1A of Part 9) to pay tax in respect of that wager under this section.

Clause 23 Inserts a new section in the Act, section 150AC (Annual levy for Tasmanian gaming licence with second totalizator endorsement) to include an annual Tasmanian gaming licence levy, for the “second totalizator endorsement” of 925 000 fee units. This section also includes proportional arrangements where a licence term ceases other than 30 June in any financial year.

Clause 24 Repeals section 150AD (Totalizator wagering levy).

Clause 25 Amends Schedule 5 of the Act (Further transitional and savings provisions) by inserting after Division 2 of Part 5, *Part 6 - Transitional Provisions Consequent on Gaming Control Amendment (Wagering) Act 2019*.

Part 6 provides for transitional point of consumption tax provisions from 1 January 2020 to 30 June 2020 (both days inclusive).

Transitional provisions include:

- a period starting 1 July in a financial year is taken to be a reference to 1 January 2020 and an amount of \$150 000 is taken to be a reference of \$75 000.
- an entitlement to refund of the totalizator wagering levy (50 per cent) - for the holder of a Tasmanian gaming licence endorsed with the second totalizator endorsement;
- payment of the annual levy (925 000 fee units) for the transitional period is taken to be 462 500 fee units.

PART 4 - REPEAL OF ACT

Clause 26 Repeal of Act on the first anniversary of the day on which it commenced.